

CASE NO. 08cv 1589

ATTACHMENT NO. 4

EXHIBIT \_\_\_\_\_

TAB (DESCRIPTION) \_\_\_\_\_

1 dealing with Denise Johnson being alive on August  
2nd, did you receive it as a result of a conver-  
3 sation with individuals?

4 MR. MURPHY: Objection.

5 THE COURT: What is the basis for your  
6 objection?

7 MR. MURPHY: Assumes facts not in evidence.

8 MS. PLACEK: It was already established that  
9 he had such information.

10 MR. MURPHY: Judge, getting back to the  
11 contents of the conversation.

12 MS. PLACEK: Judge, I am allowed, according  
13 to, and I re-read Chambers versus Mississippi,  
14 as to imputed knowledge. I believe he stated  
15 that he had that knowledge. I'm allowed now to  
16 cross examine as to the foundation to the  
17 knowledge.

18 THE COURT: So that this record might be  
19 clear, why don't we conduct a voir dire of this  
20 witness to determine whether or not under  
21 any stated facts you're going to be able to  
22 develop enough to warrant the invocation of  
23 Chambers and then the record will be completely  
24 clear in that area and not comingled with

1 what is and what is not hearsay. To some extent  
2 I can hear what this witness' conversation was in  
3 trying to make a determination as to whether it  
4 has any relationship to Chambers or not. I'm  
5 going to say to you off the top of my head, from  
6 what I know about this evidence, I don't think  
7 that Chambers is going to fit these circumstances.  
8 I don't know enough about the situation to make  
9 that determination. So I'm going to suspend  
10 the trial of this case and conduct a voir dire exam-  
11 ination of this witness for the limited purpose  
12 of seeing if you can lay a foundation which  
13 will justify it.

14 MS. PLACEK: If it please the Court.

15 MR. MURPHY: May I finish what I was going  
16 to say?

17 MS. PLACEK: I am sorry, I thought the  
18 Court was addressing me.

19 THE COURT: I'm addressing both of you.

20 MR. MURPHY: Your Honor, there was a  
21 hearing pursuant to a motion made by the  
22 Defense alleging that the State violated Brady,  
23 and this witness was called as a witness by  
24 the Defense and testified extensively regarding

1 the conversation which he is being asked about now.  
2 For the purpose of the hearing the Court wants to  
3 conduct, we would stipulate that would be the  
4 Officer's testimony.

5 THE COURT: The two hearings were for dif-  
6 ferent purposes, while they overlap in what might  
7 be an extreme way. What I was looking for in that  
8 hearing was whether or not there was any basis  
9 whatsoever for the invocation of Brady versus  
10 Merrill. That's distinct from the invocation of  
11 Chambers versus Mississippi in the fact that  
12 they are closely related or bar upon the same  
13 subject matter. The distinction is still sharp.

14 You may proceed on the voir dire  
15 examination. It's going to have to unfold to  
16 some degree of clarity and some degree of --

17 MS. PLACEK: Therefore, Judge, since the  
18 Court -- I understand the Court has a jury  
19 waiting, and I understand this Court has been  
20 more than patient with me in this matter.  
21 What I would suggest, Judge, is that since  
22 at this time, for the purpose of Chambers  
23 hearing only, that this gentleman be made a  
24 Court's witness with both sides allowing --

1           THE COURT: It's not necessary, because  
2 under the rules you can cross examine anybody.  
3 So I don't have to call him as a court's  
4 witness. Put some questions to him, and if it  
5 appears as though you can get information from  
6 him better by cross examining, I will permit  
7 you to do that.

8           MS. PLACEK: Q Officer, calling your  
9 attention to August 2nd -- strike that.  
10          August 7th, 1988, I would ask --

11          THE COURT: Might I suggest to you that  
12 the problem of Chambers that is bothering me,  
13 which may not be relevant, but the problem that  
14 is bothering me is assuming he got the infor-  
15 mation from someone, to what degree can you  
16 attribute any indicia at all of reliability  
17 to it?

18          MS. PLACEK: That was exactly my point,  
19 Judge. I believe that if anything --

20          THE COURT: Put a question to him and not  
21 to me.

22          MS. PLACEK: Judge, can we assume that  
23 for the purpose of the stipulation, to save  
24 time, that the information was in fact received

1 from the two women as previously testified in the  
2 Brady material?

3 THE COURT: Can we adopt that?

4 MR. MURPHY: I was willing to offer and  
5 stipulate to that and move along.

6 THE COURT: Put a question.

7 MS. PLACEK: I would ask that I be allowed  
8 to cross.

9 THE COURT: Put a question.

10 MS. PLACEK: Surely.

11 Q Officer, isn't it correct that on  
12 April 7th of 1988 you spoke to two women?

13 THE WITNESS: A That's correct.

14 Q When you spoke to these two women,  
15 you showed them the picture of Denise Johnson,  
16 correct?

17 A That's correct.

18 Q What time of day or night was this?

19 A It was approximately 2:00 o'clock.

20 Q As a matter of fact, it was before  
21 you spoke to Mrs. Fields or picked her up,  
22 correct?

23 A It was after I picked her up because  
24 I got the pictures from her.

1 Q Mrs. Fields was with you at that time?

2 A I think she was waiting by my squad car  
3 across the street.

4 Q Officer, do you remember testifying in  
5 a Brady motion previous to this date?

6 A Yes, I do.

7 Q I apologize, Judge, I have no transcript.  
8 I would ask the Court to rely both on its notes --

9 THE COURT: Put a question.

10 MS. PLACEK: Q Officer, isn't it correct  
11 at that time that you said you had not in fact  
12 spoken to the guardian or not personally -- the  
13 guardian of Denise Johnson was not present to you  
14 at the time that you spoke to these two women?

15 MR. MURPHY: Objection, Judge. It's not  
16 impeaching

17 THE COURT: She's not trying to impeach. This  
18 is a hearing to discover whether or not Brady,  
19 and whether or not Chambers is going to apply and  
20 to that extent the rules of evidence are relaxed  
21 considerably. Put a question.

22 MS. PLACEK: Q Isn't that correct?

23 THE WITNESS: A What was your question?

24 Q Isn't it correct that Estelle Fields

1 was not with you when you spoke to these two women?

2 A. No, she wasn't.

3 Q Isn't it correct, as a matter of fact  
4 it was only after you spoke to these two women  
5 that you called Estelle Fields to tour the neighbor-  
6 hood with you?

7 A That's incorrect. She didn't live --

8 Q Officer, do you remember testifying --

9 MR. MURPHY: Objection, Judge.

10 THE COURT: You're cutting off the witness.

11 MS. PLACEK: Continue, Officer.

12 THE WITNESS: I had called her earlier the  
13 day to meet me at -- we made arrangements to  
14 meet at 10530 South State Street. At that location  
15 she gave me the pictures, the first time I had  
16 the picture. That was my first encounter with  
17 Mrs. Fields.

18 MS. PLACEK: Q Was she to meet you solely  
19 for the purpose of giving you the picture?

20 THE WITNESS: A For giving me the picture  
21 and to tour the area.

22 Q Do you remember testifying at the  
23 Brady motion on an earlier court date?

24 A Yes.

1 Q Do you remember testifying in fact  
2 that you had in your possession a picture of  
3 the deceased, Denise Johnson?

4 A Correct.

5 Q Do you remember testifying that it was  
6 only after you received certain information from  
7 these two people that you had called Estelle  
8 Fields on the phone and then retrieved her to  
9 tour the area with you?

10 A I don't remember testifying to that.

11 Q Officer, did you ask these women  
12 their names?

13 A I can't recall if I did or didn't.  
14 I am sure I did.

15 Q Did you ask them where they resided?

16 A Yes.

17 Q That was at 10537 South State?

18 A Correct.

19 Q And they told you in fact on August  
20 2nd, 1988, at approximately 2:00 o'clock, or  
21 1400 hours, that they saw the victim, Denise  
22 Johnson?

23 A I think I indicated that in my report  
24 what those people had told me.

1 Q Is your report, to the best of your  
2 knowledge, true and correct?

3 A Yes.

4 MS. PLACEK: Thank you.

5 MR. MURPHY: Judge, I would ask that that  
6 last question and answer be stricken.

7 THE COURT: Well, if you mean because it  
8 means the contents of the report is true and  
9 correct, to that extent it is stricken.

10 MS. PLACEK: Q Did they also tell you that  
11 Denise Johnson might be on Wabash from 105th to --  
12 excuse me, from ten five hundred to ten six  
13 hundred Wabash?

14 THE WITNESS: A What was the address on  
15 Wabash? I believe from 105th to 106th.

16 Q In the area of 109th and Indiana?

17 A Correct.

18 Q Did in fact you ask how they secured  
19 that information?

20 A No, I didn't.

21 Q As a result of this information, did  
22 you tour those specific areas?

23 A Yes.

24 Q Did you rely on that information --

1 did you in fact rely on that information?

2 A Yes, I used that information.

3 Q Does that mean you relied upon it,  
4 Officer?

5 A I used that information to follow up  
6 the lead that was given to me, yes.

7 Q Did you in fact put that information  
8 down to be passed on to your brother officers?

9 A I included it in my report, yes.

10 Q Did you in fact meet Mrs. Fields  
11 at the home of her father?

12 A I met her at the home of a relative  
13 at 10530 South State.

14 Q Was that her father, William McCoy?

15 MR. MURPHY: Objection.

16 THE COURT: Sustained.

17 MS. PLACEK: Q As a matter of fact, you  
18 met her on the first-floor apartment?

19 THE WITNESS: A I met her at the address,  
20 right.

21 Q And that was in fact inside of the  
22 home, correct?

23 A I really can't recall.

24 Q As a matter of fact, would it be correct

1       in saying that you went there only for the purpose  
2       of finding a picture or getting a picture of the  
3       alleged victim?

4           A     For my sole purpose?

5           Q     Yes.

6           A     I didn't have a sole purpose in going  
7       there. I went there to get a picture.

8           Q     Am I correct that it's only after you  
9       received this information as to the deceased  
10      being alive at approximately 1400 hours on  
11      August 2nd that then you got the complainant  
12      and toured the area?

13        MR. MURPHY: Objection. Asked and answered.

14        THE COURT: Sustained.

15        MS. PLACEK: Am I correct in assuming  
16      that originally that picture was only for publication?

17        MR. MURPHY: Objection.

18        MS. PLACEK: I'll withdraw it, Judge.

19        Q     Am I correct in assuming that you  
20      were originally -- you originally only went to  
21      get a picture from Mrs. Fields to be published  
22      through different police media?

23        A     I went to meet with Mrs. Fields to inter-  
24      view her to obtain a picture and see if she could

1 assist me in my investigation.

2 Q By assist you in your investigation,  
3 you mean interviewing her and giving you a  
4 picture; correct?

5 A And to have her tour the area with me.

6 She knew what the girl looked like.

7 Q Was the picture accurate?

8 A To the best of my knowledge.

9 MR. MURPHY: Objection.

10 THE COURT: Sustained. How would he know?

11 MS. PLACEK: Q What time did you first  
12 come to her father's apartment?

13 MR. MURPHY: Objection, Judge.

14 THE COURT: Sustained.

15 MS. PLACEK: Q What time did you first come  
16 to the address at 10530 South State?

17 THE WITNESS: A I think I went around  
18 2:00 p.m. in the afternoon, approximately.

19 Q What time did you first develop in  
20 on the source?

21 A Shortly thereafter.

22 Q On the 7th of August of 1988, the case  
23 remained still not clear, correct?

24 MR. MURPHY: Objection.

1 THE COURT: Objection is sustained.

2 MS. PLACEK: Q Am I correct in assuming  
3 that actually you arrived at 1500 hours?

4 THE WITNESS: A If that's what's written  
5 in my report, yes, it's probably true.

6 Q What time did you really speak to the  
7 sources?

8 MR. MURPHY: Objection.

9 THE COURT: Sustained.

10 MS. PLACEK: Q Officer, how much time  
11 elapsed between the time of your arrival until  
12 the time you spoke to these sources?

13 THE WITNESS: A I can't be certain.

14 Q In your report, am I correct in  
15 assuming that you only spoke of touring the area  
16 with Mrs. Fields after in fact the anonymous  
17 sources gave you this information?

18 A That is true.

19 Q Am I correct in assuming that your  
20 report was written chronologically?

21 MR. MURPHY: Objection, Judge.

22 THE COURT: Overruled.

23 THE WITNESS: I don't know.

24 MS. PLACEK. Q You don't know how you wrote

1 your report?

2 THE WITNESS: A That particular report?

3 Q Yes.

4 A I assume it might have been chronological.

5 Q Would it be correct the first thing is  
6 that you contacted the complainant, Mrs. Fields?

7 A Correct.

8 MR. MURPHY: Objection, Judge.

9 THE COURT: Objection is sustained. It's  
10 immaterial for the purpose of this hearing.

11 MS. PLACEK: Well, then I would ask -- I  
12 will make the objection later and the State can  
13 argue.

14 That's all, Judge.

15 THE COURT: State, do you have anything to  
16 offer on this issue? Do you wish to cross  
17 examine, or examine?

18 MR. MURPHY: I would like to ask a few questions,  
19 if I may.

20 THE COURT: You may.

21 EXAMINATION BY

22 MR. JOHN MURPHY:

23 MR. MURPHY: Q Officer, you indicated that  
24 these two ladies were anonymous sources, is that

1 correct?

2 A Correct.

3 Q As you sit here today, do you know the  
4 names of these two ladies that you spoke to?

5 A No.

6 MS. PLACEK: Objection.

7 THE COURT: Overruled.

8 MR. MURPHY: Q Did you ever know the names  
9 of those two ladies that you spoke to?

10 THE WITNESS: A No, if I had known that, they  
11 would be in my report.

12 Q In fact, they never told you their names,  
13 they just told you something about the person whose  
14 picture you had, is that correct?

15 A Correct.

16 Q You approached them; they did not approach  
17 you?

18 A That's correct.

19 Q They responded to questions you asked  
20 them, would that be fair to say? Did you ask them  
21 if they had seen this person who was in the picture?

22 A Correct.

23 Q And they responded to you, correct?

24 A Correct.

1 Q Do you know what the relationship  
2 between these two women were and Denise Johnson  
3 at that time?

4 A No.

5 Q Did you ever learn if there was any  
6 relationship?

7 A No.

8 Q So to your knowledge, you don't even  
9 know if these people knew Denise Johnson, is  
10 that correct?

11 A Correct.

12 Q But you did list in your report the  
13 address where these women lived?

14 A Correct.

15 Q Did they ever describe to you what she  
16 was wearing?

17 A No, I don't think so.

18 Q Did they ever describe to you what  
19 she was doing when they thought they saw her?

20 A No.

21 Q And you testified that you went out and  
22 looked for her after speaking to them, correct?

23 A Correct.

24 Q Did you ever locate her in the area

1 where they saw her or thought she would be?

2 A No, I didn't.

3 Q Obviously, these ladies -- you never seen  
4 since then -- strike that.

5 MS. PLACEK: Objection.

6 MR. MURPHY: They are not in court today?

7 MS. PLACEK: Objection.

8 THE COURT: The objection is overruled.

9 MR. MURPHY: Q These ladies that you talked  
10 to aren't in court today, is that correct?

11 THE WITNESS: A Correct.

12 Q Have you seen them since then, to the  
13 best of your knowledge?

14 A No.

15 Q And did these ladies tell you about  
16 their involvement in her disappearance?

17 MS. PLACEK: Objection.

18 THE WITNESS: No.

19 THE COURT: Overruled.

20 MR. MURPHY: Q Did they say anything to you  
21 that you would view as perhaps incriminating  
22 themselves?

23 MS. PLACEK: Objection.

24 THE COURT: Overruled.

1 THE WITNESS: No.

2 MR. MURPHY: Q At the time you interviewed  
3 these ladies, this was on August 7th, correct?

4 THE WITNESS: A Correct.

5 Q This is at least six days after  
6 Denise Johnson had disappeared, is that  
7 correct?

8 A That is correct.

9 MR. MURPHY: No further questions.

10 THE COURT: Anything further on the motion?

11 MS. PLACEK: Yes.

12 Q Officer, you said that they didn't say  
13 anything incriminating to you, that you considered  
14 incriminating, correct?

15 A Correct.

16 Q This is a conclusion on your part, isn't  
17 that correct?

18 A It was a criminal investigation.

19 Q So in other words, if they would have  
20 said, "I murdered her," that wouldn't be in-  
21 criminating?

22 MR. MURPHY: Objection.

23 THE COURT: Sustained.

24 MS. PLACEK: Q Let me ask you this, Officer.

1           The State's Attorney asked you whether or  
2 not they told you what she was wearing at the time  
3 they saw her, correct?

4           THE WITNESS: A He asked me that.

5           Q     Did you ask them?

6           A     I don't think so. I don't know.

7           Q     Well, you were conducting the inves-  
8 tigation, correct?

9           A     Correct.

10          Q     Did you ask them what she was doing  
11 at the time they saw her; did you ask them  
12 that question?

13          A     I may or may not have.

14          Q     Quite frankly, isn't your memory  
15 exhausted as to what you did or didn't ask?

16          A     Correct.

17          Q     As a matter of fact, you're not sure  
18 whether you asked them certain questions or  
19 didn't ask certain questions, correct?

20          A     Correct.

21          Q     The only thing you're going by is your  
22 report, correct?

23          A     Correct.

24          Q     So when you said whether or not they

1 said something incriminating to you, you don't  
2 even know whether they did or didn't, correct?  
3 Because you don't even remember what they truly  
4 said; correct?

5 MR. MURPHY: Objection.

6 THE COURT: Overruled.

7 MS. PLACEK: Q Correct?

8 THE WITNESS: A I think something incriminating  
9 I would have remembered.

10 Q Let me ask you this, Officer.

11 Isn't it correct that your memory is based  
12 solely on your report.

13 A In this instance, yes.

14 Q As a matter of fact, am I correct in  
15 assuming that at the time you were doing your  
16 report, you weren't looking for anything incriminating,  
17 correct?

18 A Correct.

19 Q You were looking for a missing person,  
20 correct?

21 A Correct.

22 Q And you believed them, correct?

23 MR. MURPHY: Objection, Judge, as to what  
24 the Officer believed.

1 THE COURT: Sustained.

2 MS. PLACEK: Q Let me ask you something,  
3 Officer.

4 When you say your memory is exhausted,  
5 am I correct in saying that quite frankly in  
6 conducting the investigation you showed them  
7 what appeared to be a true and accurate picture  
8 of a person by the name of Denise Johnson; correct?

9 THE WITNESS: A True.

10 Q And as a matter of fact, they said that  
11 they saw her, correct?

12 A That's true.

13 Q And they said that they saw her,  
14 according to your report, in several areas;  
15 correct?

16 A Correct.

17 Q They not only saw her in several areas,  
18 but they saw her in several areas on August 2nd,  
19 correct?

20 A That's what they told me.

21 Q And they said that they saw her on a  
22 specific time, correct? At approximately 1400 hours,  
23 correct?

24 A Correct.

1           Q     And that is all you cared to ask,  
2 correct, or that's all you remember you asked?

3           A     That's all I remember I asked.

4           Q     So as far as anything else, you're  
5 speculating, correct?

6           MR. MURPHY: Objection.

7           THE COURT: Sustained.

8           MS. PLACEK: Q Let me ask you this, Officer.

9                 The State's Attorney asked you if you  
10 ever saw those women again. You wouldn't even  
11 know if you saw those women again, is that correct?

12          THE WITNESS: A That is true.

13          Q     And you knew, or rather that two  
14 Chicago Police Departments knew that on August 8th  
15 this Defendant was in custody, correct?

16          MR. MURPHY: Objection.

17          MS. PLACEK: Imputed knowledge, Judge.

18          MR. MURPHY: This is the day before, Judge.

19          THE COURT: I understand. I will allow him  
20 to answer.

21          MS. PLACEK: On August 8th you knew  
22 this defendant was in custody, correct?

23          THE WITNESS: A I subsequently learned  
24 that somebody was in custody and charged with

1       this girl's murder. When I learned that information  
2       I couldn't tell you.

3           Q     Did you ever go back to the address  
4       where these two women resided in an attempt to  
5       find out their identity after you found out that  
6       somebody was in custody on the murder?

7           A     No.

8           Q     Did you in fact know that the --  
9       strike that.

10              You subsequently learned that the  
11       person in custody on the murder was charged  
12       under a time when these two women saw this person  
13       alive, correct?

14              MR. MURPHY: Objection, Judge.

15              THE COURT: Sustained.

16              MS. PLACEK: Q Officer, did you ever make  
17       any attempt after that -- strike that.

18              Since that August 7th date, did you  
19       ever return to that ten five three seven South  
20       State address to find out the identity of those  
21       women?

22              THE WITNESS: A No.

23              MR. MURPHY: Objection. Asked and answered.

24              THE COURT: Answer given.

1 MS. PLACEK: Q When you were asked whether  
2 those two women were in the courtroom, quite  
3 frankly you wouldn't know whether one or all of  
4 them by facial --

5 MR. MURPHY: Objection.

6 THE COURT: Sustained.

7 MS. PLACEK: Q Am I correct in assuming as  
8 you sit there the only thing you remember about  
9 this is that the women were Black and female?

10 THE WITNESS: A Correct.

11 Q Am I correct in assuming that in fact  
12 you took no action after that August 2nd, 1988  
13 date to investigate this case further, correct?

14 MR. MURPHY: Objection.

15 THE COURT: Sustained.

16 MS. PLACEK: Q Am I correct that you in  
17 fact delivered this information and passed it  
18 on to your brother police officers?

19 MR. MURPHY: Objection.

20 THE COURT: Sustained.

21 MS. PLACEK: That's all, Judge.

22 THE COURT: Anything further?

23 MR. MURPHY: No, Judge.

24 THE COURT: Do you have anything to further

1 offer on this theory?

2 MS. PLACE: No, Judge. As we pointed out with  
3 our Brady material, the Officer had a faulty memory --

4 MR. MURPHY: Objection.

5 THE COURT: Sustained.

6 MS. PLACEK: Judge, we are blocked by the  
7 Chicago Police Department. That's why we're  
8 claiming prejudice; except we would ask the Court  
9 to take judicial notice of the Bill of Particulars.

10 THE COURT: It's quite apparent, was apparent  
11 in the judgment that the conversation that this  
12 Officer had with the two unidentified Black females  
13 on August 2nd -- strike that -- August 7th, took  
14 place and he received the information that is  
15 recited in his police report, which information,  
16 without anything further, is classic every day  
17 garden variety, home grown hearsay, and it's not  
18 admissible in a criminal trial.

19 What I was looking for, and I think  
20 it narrows exception enunciated by the Supreme  
21 Court in the intent of due process, there are  
22 many other exceptions to the hearsay rule,  
23 all of which are bottomed on conditions which  
24 society, through the courts, through the legislators,

1 has determined important indicia of reliability.  
2 When there is no society rule built into the  
3 rules of evidence, that yet does not preclude  
4 the admissibility of otherwise hearsay evidence.  
5 But it does require the proponent to develop  
6 indicia of reliability. And It argues not to  
7 suggest that the Chicago Police Department are  
8 frustrated, the ability to discover that indicia  
9 of reliability, and I'm not certain that it's  
10 even a fair accusation. As a matter of fact,  
11 from the evidence that I heard, it's not fair  
12 to subscribe that motivation to anybody in this  
13 case. This Officer, perhaps had it been I or  
14 someone else, might have jotted down names and  
15 addresses, age, relationship, and some other  
16 things and perhaps his knowledge of the circum-  
17 stances had been greater, he might have.  
18 But whatever he did does not impune this  
19 situation with any indicia of reliability.

20 To say that he didn't do it in order  
21 to avoid giving breath to indicia of reliability  
22 is pure, absolute speculation.

23 MS. PLACEK: That's not our argument.

24 THE COURT: I know, Ms. Placek. Whatever

1 the argument is, it cannot possibly make an argument  
2 that impunes this situation with indicia of reliab-  
3 ility. To make that otherwise hearsay conversation  
4 that this Officer had with those two unidentified  
5 women admissible as substantive evidence. Accordingly  
6 the conversations that he had, which are fully  
7 explored in this report, not only in this hearing,  
8 not only in the so-called Brady hearing that was  
9 conducted prior to the commencement of this trial,  
10 but in his examination prior to our receiving the  
11 circumstances of the conversation have been fully  
12 explored, and the Court rules that the contents  
13 of the conversation is not admissible in this  
14 Defendant's trial.

15 MS. PLACEK: If it pleases the Court, there  
16 was one question contained within the transcript.  
17 There was a question with the -- not the conver-  
18 sation, but as to acting on information where he  
19 spoke he had information involving, and that's why  
20 he took certain actions. I believe that that was  
21 one of the last questions before we took the break.  
22 The question dealt with, and I believe MR. Lufrano  
23 stated it wasn't being offered for the truth of  
24 the matter asserted, just to show action. I would

1 ask that the Court strike that.

2 THE COURT: The record clearly shows that he  
3 had a conversation, and as a result of it he and  
4 Mrs. Fields toured the neighborhood looking  
5 for the deceased in this case, I would presume,  
6 and that's in the evidence. That is in the  
7 evidence and in a proper fashion so it stands.

8 MS. PLACEK: That's the only thing that I  
9 wanted to know, Judge. I apologize.

10 THE COURT: We'll go back to the trial of  
11 this case.

12 Do you have any further questions of this  
13 witness?

14 MS. PLACEK: If I might have a moment. As  
15 long as I know that question is still in  
16 existence.

17 THE COURT: Ms. Placek, you have but a moment.  
18 We are going to complete the examination of this  
19 witness.

20 MS. PLACEK: I understand.

21 Q When you talked to Mrs. Fields  
22 concerning the hobbies of Denise Johnson, did  
23 she make an answer?

24 MR. MURPHY: Objection, Judge.

1 THE COURT: Overruled.

2 MS. PLACEK: Q Did she make an answer?

3 MR. MURPHY: Judge, there has been no testimony  
4 of this Officer, that he had talked to this woman  
5 about Denise Johnson's hobbies.

6 MS. PLACEK: I'm asking --

7 MR. MURPHY: Assumes a fact not in evidence.

8 THE COURT: Sustained.

9 MS. PLACEK: Q Did you ask Mrs. Fields about  
10 Denise Johnson?

11 THE WITNESS: A Yes.

12 Q Did you ask whether she had any hobbies?

13 A I can't recall.

14 Q If she said she had any hobbies, would  
15 you have put it down in your report?

16 MR. MURPHY: Objection.

17 THE COURT: Sustained.

18 MS. PLACEK: Q Is your memory exhausted as  
19 to that point?

20 THE WITNESS: A As to whether or not she had  
21 hobbies?

22 Q Yes.

23 A Yes.

24 Q Would anything refresh your memory?

1 A Possibly my report.

2 Q I show you Defendant's Exhibit Number 7.

3 Is your memory in fact refreshed?

4 A Yes, it is.

5 Q As a matter of fact, you found out that  
6 Denise Johnson had no hobbies; correct?

7 MR. MURPHY: Objection, Judge.

8 THE COURT: Sustained.

9 MS. PLACEK: Q Do you remember asking that  
10 question?

11 THE WITNESS: No, I don't remember that  
12 question. Generally that type of question is  
13 asked as preliminary questioning by the beat  
14 officer.

15 Q You filled in nothing in your report  
16 as to hobbies, interest, et cetera?

17 MR. MURPHY: Objection.

18 THE COURT: Sustained.

19 MS. PLACEK: Q Let me ask you this, Officer.

20 You had no idea when you called  
21 Mrs. Fields whether or not other Chicago  
22 Police Officers had called her before, correct?

23 THE WITNESS: A I did not know whether  
24 or not other police officers were called?

1 Q Yes.

2 A I know other officers in my office had  
3 investigated this case.

4 Q And had called her, possibly?

5 A Yes.

6 Q And possibly even told her of other  
7 sightings?

8 MR. MURPHY: Objection.

9 THE COURT: Objection sustained.

10 MS. PLACEK: Q Do you know what those other  
11 officers might or might not have said to her  
12 because you weren't present prior to the August  
13 7th date?

14 THE WITNESS: A That is correct.

15 Q By the way, you did use other infor-  
16 mation, Officer Matkovich and Officer Blackman's  
17 report in your information, correct, if you  
18 remember?

19 MR. MURPHY: I object. That has been  
20 asked and answered.

21 THE COURT: Sustained.

22 MS. PLACEK: Q And you were looking for  
23 a run-away, is that correct?

24 MR. MURPHY: Objection.

1420  
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1 THE COURT: Sustained.

2 MS. PLACEK: Am I allowed to ask that --

3 THE COURT: You have asked it a dozen different  
4 times.

5 MS. PLACEK: Well, maybe I want an answer.

6 THE COURT: I think he answered it.

7 Objection sustained.

8 MS. PLACEK: No further questions.

9 THE COURT: Do you care to cross examine  
10 this witness?

11 MR. MURPHY: No, Judge, I have no questions.

12 THE COURT: Thank you, Officer. You may step  
13 down.

14 (Witness Excused.)

15 THE COURT: We are going to recess the trial  
16 of this case.

17 How many more witnesses do you plan on  
18 calling?

19 MS. PLACEK: We have one coming from out of  
20 town, Judge.

21 THE COURT: When?

22 MS. PLACEK: She needs seven days notice.

23 THE COURT: How about April 16th?

24 MS. PLACEK: Fine.

1421

1 THE COURT: Order of Court, April 16.

2 (Which were all the  
3 proceedings had in  
4 the above-entitled  
5 cause on this date.)

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1 STATE OF ILLINOIS )  
2 ) SS:  
COUNTY OF COOK )

3 IN THE CIRCUIT COURT OF COOK COUNTY  
4 COUNTY DEPARTMENT-CRIMINAL DIVISION

5 THE PEOPLE OF THE )  
6 STATE OF ILLINOIS )  
VS ) No. 88 CR 12517  
7 JEROME HENDRICKS ) Charge: MURDER

8 BENCH TRIAL

9 BE IT REMEMBERED that this cause  
10 came on for trial before the Honorable LEO E. HOLT, on  
11 the 16th day of April, A.D., 1991.

12 PRESENT:

13 HON. JACK O'MALLEY,  
State's Attorney of Cook County, by:  
14 MR. JOHN MURPHY,  
Assistant State's Attorney,  
15 appeared on behalf of the People;

16  
17 MR. RANDOLPH STONE,  
Public Defender of Cook County, by  
18 MR. VINCENT LUFRANO and  
MS. MARIJANE PLACEK,  
19 Assistant Public Defenders,  
Appeared on behalf of the Defendant.  
20  
21  
22

23 JANYCE W. BOOTH, CSR  
Official Shorthand Reporter  
24 Criminal Division - Markham

1 THE CLERK: Sheet 1 line 28. Jerome Hendricks.

2 THE COURT: Both sides are ready?

3 MR. LUFRANO: Yes, Your Honor.

4 THE COURT: Call your witness, defense.

5 MR. LUFRANO: Your Honor, we would call Officer  
6 Grzyb.

7 (Witness sworn)

8 THE COURT: That microphone is on. If you will  
9 pull it over in front of you, speak directly into, keep  
10 your voice up, we'll all hear you. You made proceed.

11 D A N G R Z Y B,

12 called as a witness on behalf of the People of the  
13 State of Illinois, being first duly sworn, was examined  
14 and testified as follows:

15 DIRECT EXAMINATION

16 BY

17 MR. LUFRANO:

18 Q. Good morning. Would you state your name  
19 and occupation?

20 A. Youth Officer Dan Grzyb, Chicago Police  
21 Department.

22 THE COURT: Please spell your name?

23 THE WITNESS: G-r-z-y-b.

24

1 BY MR. LUFRANO:

2 Q. Sir, were you so employed on August 3,  
3 1988?

4 A. Yes, I was.

5 Q. What was your assignment on that date?

6 A. I was assigned to do a follow-up  
7 investigation on a 12-year-old missing person.

8 Q. And in the course of that investigation,  
9 you talked with Estelle Fields?

10 A. Yes.

11 Q. And have you reviewed your report as to  
12 that conversation?

13 A. Yes.

14 Q. Now do you remember what the interests  
15 were?

16 A. I'm sorry. I don't understand.

17 Q. You were told what the interests of the  
18 missing girl were. Do you remember that?

19 A. No.

20 Q. Would anything refresh your recollection?

21 A. Yes.

22 Q. I show you what is marked as Defendant's  
23 Exhibit A. Do you recognize what that is?

24 A. You are talking about the top line.

1 Q. What this report is?

2 A. Yes.

3 Q. What is that.

4 MR. CASSIDY: Objection.

5 THE COURT: What's the basis of your objection?

6 MR. CASSIDY: I believe it's calls for  
7 impeachment.

8 THE COURT: I believe he's asking the officer if  
9 he knows what the document he's showing him is.

10 MR. CASSIDY: I thought it was being used to  
11 refresh the officer's recollection.

12 THE COURT: That's right, and he asked if he  
13 recognizes --

14 MR. CASSIDY: What's the relevance of whether  
15 the officer knows what the document is.

16 THE COURT: The objection is sustained. He can  
17 use anything to refresh his recollection.

18 BY MR. LUFRANO:

19 Q. Officer after reviewing this, do you  
20 remember what you put down in your police report?

21 A. I don't remember --

22 MR. CASSIDY: Objection, Judge.

23 THE COURT: The objection is sustained.

1 BY MR. LUFRANO:

2 Q. Now, you had a conversation with Estelle  
3 Fields, and she told you that the interests of the lady  
4 in question Denise Johnson was boys, correct?

5 A. Wrong. That is not correct.

6 Q. Now, you made a police report out at the  
7 time, correct?

8 A. Correct.

9 Q. And it was right after you had talked to  
10 Estelle Fields, correct?

11 A. Correct.

12 Q. I show you what's been marked as Exhibit  
13 A. Would you indicate what that is?

14 A. This information was taken from previous  
15 reports.

16 Q. Sir, would you just tell us what it is?

17 A. I don't understand what you're asking me  
18 here.

19 Q. Sure you do. This piece of paper

20 MR. CASSIDY: Objection, Judge.

21 THE COURT: Objection sustained. Argumentative.

22 BY MR. LUFRANO:

23 Q. Piece of paper marked Exhibit A. What is  
24 it?

1                   MR. CASSIDY: Objection. No basis for this  
2 exhibit to be identified by this witness.

3                   MR. LUFRANO: His prior recollection  
4 regarding --

5                   THE COURT: Is he the author of that document?

6                   MR. LUFRANO: Yes, he is.

7                   THE COURT: You haven't brought that out.

8 Objection is overruled at this point.

9                   THE WITNESS: Ask the question.

10 BY MR. LUFRANO:

11 Q. What is this sheet of paper?

12 A. It's a follow-up missing person case  
13 report.

14 Q. Whose signature is down on the bottom?

15 A. My signature.

16 Q. You authorized this report, correct?

17 A. Yes.

18 Q. And under Item 32 where it says  
19 "interests," what is written or typed there?

20 MR. CASSIDY: Objection.

21 THE COURT: Objection is sustained.

22 BY MR. LUFRANO:

23 Q. Is there somewhere on this document that  
24 you show the interests of the girl that you were

1 looking for?

2 MR. MURPHY: Objection, Judge.

3 THE COURT: The objection is sustained.

4 BY MR. LUFRANO:

5 Q. Now, this report was written after  
6 discussing the matter of Denise Johnson with Estelle  
7 Fields, correct?

8 A. Correct.

9 Q. And this document includes the  
10 conversation with Estelle Fields, correct?

11 MR. MURPHY: Objection, Judge.

12 THE COURT: No. Overruled.

13 THE WITNESS: Correct.

14 BY MR. LUFRANO:

15 Q. And this is the notes reflecting the  
16 content of that conversation, is that correct?

17 A. That is not correct.

18 Q. What is this?

19 A. That is the face sheet of a missing person  
20 investigation. Information taken from prior reports.

21 Q. And those prior reports included your  
22 conversation with Estelle Fields, did it not?

23 A. Not the prior reports.

24 Q. Sir, on August 3rd, you talked to Estelle

1 Fields?

2 A. Yes.

3 Q. Do you remember her telling you that young  
4 Denise was interested in young men?

5 A. She never told me that.

6 Q. And she never told you about older men?

7 A. Never.

8 Q. Now, did she not tell you that Denise had  
9 become a problem child?

10 A. She did say that.

11 Q. Did she indicate to you that the nature of  
12 that problem was her hanging around and socializing  
13 with older men?

14 A. No.

15 Q. Now, you reviewed the prior reports in  
16 your discussing the matter with Estelle Fields, right?

17 A. I reviewed a prior discussion with her,  
18 yes.

19 Q. Now, where did you go looking for Denise?

20 MR. MURPHY: Objection, Judge. Relevance.

21 THE COURT: How is it relevant?

22 MS. PLACEK: We are allowed to go in into the  
23 habits they established in their prima facie case.

24 THE COURT: How do they knowing anything about

1 her habits?

2 MS. PLACEK: Because of the police follow up  
3 this case, Judge.

4 THE COURT: The objection is sustained.

5 BY MR. LUFRANO:

6 Q. Now, you were not told that she had church  
7 habits, correct?

8 A. Correct.

9 Q. You never went to any church choir or any  
10 churches at all?

11 A. No.

12 Q. But you did run and look on the streets,  
13 correct?

14 MR. MURPHY: Objection, Judge.

15 THE COURT: Objection is sustained.

16 BY MR. LUFRANO:

17 Q. Well, what Mrs. Fields told you,  
18 summarized, led you to look for this young lady on the  
19 streets, right?

20 MR. MURPHY: Objection.

21 THE COURT: Objection sustained.

22 BY MR. LUFRANO:

23 Q. You asked Mrs. Fields about hobbies and  
24 interests of Denise, did you not?

1 A. No, I didn't.

2 Q. Weren't you there to get information that  
3 would help you look for Denise?

4 A. Yes.

5 Q. Now, you don't remember anything other  
6 than what's in your report, do you?

7 A. No, I don't.

8 Q. And it's from the total circumstances that  
9 is in your report that you operated from at that time,  
10 isn't it?

11 A. I don't understand the question.

12 Q. Well, sir, wasn't your report there to  
13 help you find Denise Johnson and officers behind you to  
14 know what you had done on the case to help them find  
15 Denise Johnson?

16 A. That's correct.

17 Q. And, in fact, you listed the conversation  
18 with Estelle Fields?

19 A. Yes.

20 Q. And she indicated to the officers that the  
21 interests of Denise Fields were boys?

22 MR. CASSIDY: Objection, Judge.

23 THE COURT: Objection sustained.

24 MR. LUFRANO: No further questions.

1 THE COURT: Cross.

2 MR. CASSIDY: No questions, Your Honor.

3 THE COURT: Thank you, sir. You may step down.

4 (Witness excused)

5 THE COURT: Call your next witness.

6 MR. LUFRANO: We would call Officer Padgurskis.

7 (Witness sworn)

8 D O H L I A P A D G U R S K I S,  
9 called as a witness on behalf of the People of the  
10 State of Illinois, being first duly sworn, was examined  
11 and testified as follows:

12 DIRECT EXAMINATION

13 BY

14 MR. LUFRANO:

15 Q. Officer, would you state your name and  
16 occupation please?

17 A. My name is Dohlia Padgurskis. I'm a  
18 sergeant with the Chicago Police Department.

19 THE COURT: Spell your last name?

20 THE WITNESS: P-a-d-g-u-r-s-k-i-s.

21 BY MR. LUFRANO:

22 Q. Calling your attention to August 3, 1988,  
23 were you so employed?

24 A. Yes. I wasn't a sergeant at the time. I

1 was a youth officer assigned to Area 2 youth.

2 Q. What were your duties as a youth officer  
3 assigned to Area 2?

4 A. My duties were processing any arrests of  
5 juveniles, doing investigations of missing persons, and  
6 hotline investigations.

7 Q. Calling your attention to August 3, 1988,  
8 do you remember what your duties were on that date?

9 A. I don't recall exactly what car I was  
10 assigned to, but I was doing the normal investigations.  
11 I had missing investigations to do as well as other  
12 district assignments.

13 Q. Did you review your reports concerning  
14 Denise Johnson before testifying this morning?

15 A. Yes, I did.

16 Q. Now, did you have occasion on August 3rd  
17 to have a conversation with Estelle Fields?

18 A. Yes, I did.

19 Q. And in that conversation did she not tell  
20 you that Denise had a habit of socializing frequently  
21 with older men or boys in their late teens?

22 MR. MURPHY: Objection, Judge.

23 THE COURT: Basis?

24 MR. MURPHY: No foundation.

1 THE COURT: The objection is sustained --

2 MR. MURPHY: Your Honor, I withdraw that  
3 objection.

4 THE COURT: Proceed.

5 BY MR. LUFRANO:

6 Q. Did you have such a conversation with Miss  
7 Fields?

8 A. Yes, I did.

9 Q. And did she tell you that?

10 A. As part of the general statement, yes.

11 Q. The other part of the statement she had  
12 indicated to you that Denise had become a problem  
13 child, did she not?

14 A. She didn't tell me that, no.

15 Q. Did she indicate to you that she had in  
16 the past gone over and stayed with her grandfather  
17 without authorization?

18 A. Yes.

19 Q. And that Estelle Fields disapproved of  
20 that totally?

21 A. I don't recall her saying that.

22 MR. MURPHY: Objection, Judge. That's not  
23 impeachment.

24 THE COURT: The objection is sustained.

1 MR. MURPHY: I would ask that be stricken.

2 THE COURT: It's stricken.

3 BY MR. LUFRANO:

4 Q. Well, did she indicate to you that Mr.  
5 Hardy had done other things against the wishes of  
6 Estelle Fields which concerned Denise?

7 MR. MURPHY: Objection.

8 THE COURT: Objection is sustained.

9 BY MR. LUFRANO:

10 Q. Did she not specifically say in your  
11 conversation and tell you that Mr. Hardy has previously  
12 assisted Denise against her wishes?

13 MR. MURPHY: Objection.

14 THE COURT: Sustained.

15 BY MR. LUFRANO:

16 Q. And did she not tell you that she had run  
17 away on prior occasions?

18 A. No, sir.

19 Q. Now, you reviewed the other reports in  
20 this matter prior to talking with Mrs. Fields, correct?

21 A. Correct.

22 Q. And there was nowhere in the prior reports  
23 which indicated she had a church interest, correct?

24 MR. CASSIDY: Objection, Judge.

1 THE COURT: The objection is sustained.

2 BY MR. LUFRANO:

3 Q. You had no information to lead you to  
4 believe that you would find Denise Johnson in a church  
5 choir?

6 MR. MURPHY: Objection.

7 THE COURT: Sustained.

8 BY MR. LUFRANO:

9 Q. When you talked to Miss Fields, she never  
10 told you that Denise had a church interest, correct?

11 MR. MURPHY: Objection.

12 THE COURT: Sustained.

13 MR. LUFRANO: There was testimony in that regard  
14 by Miss Fields, Judge.

15 THE COURT: Objection is sustained.

16 BY MR. LUFRANO:

17 Q. Now other than freely socializing --

18 THE COURT: Mr. Lufrano, I'm going to reverse  
19 that. The objection is overruled.

20 MR. LUFRANO: Thank you, Judge.

21 MR. LUFRANO: Would you read the question back  
22 as to the church.

23 (Record read back by the court reporter)

24 MR. MURPHY: Judge, if I may, I don't believe

1 the foundation has been made.

2 THE COURT: Let's hear the question.

3 (Record read back by court reporter)

4 THE COURT: The objection is overruled.

5 MR. MURPHY: Judge, with respect to this  
6 particular officer, I don't think the defense has laid  
7 a foundation for impeachment.

8 THE COURT: In what respect?

9 MR. MURPHY: Well, I believe that the witness,  
10 Estelle Fields, was asked questions about what the  
11 victim's interests were, and she answered that  
12 question. I don't believe that she was asked -- maybe  
13 my recollection is incorrect and my notes are  
14 incorrect, but I don't believe she was asked whether  
15 she told this particular police officer that her  
16 interests were at church choir.

17 THE COURT: Miss Fields testified she could not  
18 recall conversations with any police officer had on  
19 August 3, 1988. That's what I have and that's what the  
20 testimony was which opens up the conversation that she  
21 had with this police officer if they're relevant and  
22 contrary to that assertion. The objection is  
23 overruled.

24 MR. MURPHY: Judge, they're attempting to

1           impeach the witness by omission, and there's not even  
2           any evidence to use that question by this police  
3           officer.

4           THE COURT: This police officer has just given  
5           us the indication that she had a conversation with  
6           Estelle Fields. Estelle Fields has denied recall of  
7           any part of the conversation. After that, the defense  
8           is foreclosed from going any further and need not go  
9           further to perfect a basis for impeachment. Once a  
10          witness says I have no recollection of the entirety of  
11          the conversation, what else does one have to do in  
12          order to lay a proper foundation to impeach?

13          MR. MURPHY: But they are trying to impeach her  
14          by omission with respect to a question that's never  
15          been asked, Judge.

16          THE COURT: No, no. The objection is overruled.

17          BY MR. LUFRANO:

18          Q.      Officer, would you answer the question?

19          A.      Can you repeat it one more time?

20                 (Record read back by the court reporter)

21          THE WITNESS: Correct.

22          BY MR. LUFRANO:

23          Q.      And when you left Mrs. Fields, the  
24          entirety of that conversation, summary, caused you to

1 look for Denise on the streets, correct?

2 MR. MURPHY: Objection.

3 THE COURT: The objection is sustained, and also  
4 the objection to the previous question regarding Mrs.  
5 Fields telling her about the church connection is also  
6 sustained. The answer of the -- the question and the  
7 answer is stricken.

8 BY MR. LUFRANO:

9 Q. Now, she did tell you about the free  
10 association with older men, right?

11 A. That wasn't the way the response was  
12 stated.

13 Q. Well, that is how you wrote it down, is it  
14 not?

15 MR. CASSIDY: Objection, Judge.

16 THE COURT: The objection is sustained.

17 BY MR. LUFRANO:

18 Q. Well, did you make a police report after  
19 talking with Miss Fields?

20 A. Yes, I did.

21 Q. I show you what's marked as Defense  
22 Exhibit B for identification. Do you recognize this?

23 MR. CASSIDY: Objection, Judge. There is no  
24 reason to be showing the officer that.

1 THE COURT: Objection is sustained.

2 BY MR. LUFRANO:

3 Q. Well, officer, after talking to Mrs.  
4 Fields and you had made your report, did you not  
5 include in that report the conversation that you had  
6 with Mrs. Fields?

7 A. A summary of the conversation.

8 Q. Right. Do you remember that a summary of  
9 that conversation was summarized that Mrs. Fields  
10 explained that Denise has a habit of socializing freely  
11 with older men?

12 MR. CASSIDY: Objection, Your Honor.

13 THE COURT: Sustained.

14 MR. LUFRANO: Your Honor, we are talking about a  
15 conversation. This is past recollection recorded by  
16 this officer.

17 THE COURT: The objection is sustained.

18 BY MR. LUFRANO:

19 Q. Officer, did you make a report after that  
20 conversation?

21 A. Yes, I did.

22 Q. Will the report refresh your recollection  
23 as to what occurred during that conversation?

24 MR. MURPHY: Objection, Judge.

1 THE COURT: The objection is sustained.

2 BY MR. LUFRANO:

3 Q. Do you remember why you summarized the  
4 conversation with the words "Denise freely associated  
5 or socializing with older men."

6 MR. CASSIDY: Objection, Judge.

7 THE COURT: Objection is sustained.

8 BY MR. LUFRANO:

9 Q. After talking with Miss Fields, weren't  
10 you informed that, in fact, Denise freely socialized  
11 with older men?

12 A. That's taken out of context. There is a  
13 continuation to that sentence.

14 Q. "Or with boys in their late teens."

15 A. Right.

16 Q. So Mrs. Fields told you that, did she not?

17 A. As a portion of her conversation.

18 Q. But in that portion she was talking about  
19 more than one older man, correct?

20 A. Not the impression I got.

21 Q. Well, isn't men in the plural?

22 A. Yes.

23 Q. And isn't boys in the plural?

24 MR. MURPHY: Objection, Judge.

1 THE COURT: The objection is sustained.

2 BY MR. LUFRANO:

3 Q. Well, your recollection now is that we  
4 want to limit this to one man, right?

5 MR. CASSIDY: Objection, Judge. Argumentative.

6 THE COURT: Sustained.

7 BY MR. LUFRANO:

8 Q. At the time you talked to her and when you  
9 proceeded on your investigation of Denise as a missing  
10 person, wasn't it in your mind that you were looking  
11 for a young lady who was associating freely with older  
12 men and older boys?

13 MR. CASSIDY: Objection, Judge.

14 THE COURT: Sustained.

15 BY MR. LUFRANO:

16 Q. Where did you look for her?

17 A. I didn't go out and look for her that  
18 night.

19 Q. Where did you direct other people to look  
20 for her?

21 MR. CASSIDY: Objection.

22 THE COURT: Sustained.

23 BY MR. LUFRANO:

24 Q. Are you telling us that your summary of

1 "socializing freely with older men or boys in their  
2 late teens" means just one person?

3 MR. CASSIDY: Objection, Judge.

4 THE COURT: Sustained.

5 BY MR. LUFRANO:

6 Q. Well, that's your summary, is it not?

7 MR. CASSIDY: Objection.

8 THE COURT: Sustained.

9 BY MR. LUFRANO:

10 Q. Do you remember anything else from the  
11 conversation, ma'am?

12 A. Yes.

13 Q. Does it concern your summary of  
14 socializing freely with older men?

15 MR. CASSIDY: Objection.

16 THE COURT: Sustained.

17 BY MR. LUFRANO:

18 Q. Was that helped to be removed from your  
19 memory by anyone.

20 MR. CASSIDY: Objection. Form of the question.

21 THE COURT: If the witness understands -- the  
22 objection is sustained.

23 BY MR. LUFRANO:

24 Q. How long have you been a police officer?

1 A. 13 years.

2 MR. LUFRANO: No further questions.

3 THE COURT: Cross.

4 CROSS EXAMINATION

5 BY

6 MR. CASSIDY:

7 Q. Miss Fields told you that Denise  
8 socializes not only with men and boys but also with  
9 girls, is that correct?

10 A. Correct.

11 Q. And she never told you that she was  
12 socializing in a sexual manner, did she?

13 A. No.

14 Q. As a matter of fact, she told you that  
15 Denise was not sexually active, isn't that correct?

16 A. Correct.

17 MR. CASSIDY: I have no further questions.

18 REDIRECT EXAMINATION

19 BY

20 MR. LUFRANO:

21 Q. Now you didn't write anything in your  
22 report about the girls, did you?

23 MR. CASSIDY: Objection, Judge.

24 MR. LUFRANO: He opened the door, Judge.

1 THE COURT: Objection is overruled.

2 MR. CASSIDY: Your Honor, I didn't open any door  
3 about any report, Judge.

4 MR. LUFRANO: Intentionally.

5 THE COURT: Once you've opened the door, he has  
6 a right to impeach on that area if he can. The  
7 objection is overruled.

8 BY MR. LUFRANO:

9 Q. Nothing in your report about the girls,  
10 correct?

11 A. Correct.

12 Q. And nothing in your investigation or  
13 anyone else's investigation about her association with  
14 girls?

15 MR. CASSIDY: Objection, Judge.

16 THE COURT: Overruled.

17 MR. CASSIDY: Anyone else's investigation?  
18 You're going to let the officer comment upon that.

19 THE COURT: Objection is sustained.

20 BY MR. LUFRANO:

21 Q. Well, you didn't direct anybody to go look  
22 at any girlfriends of hers, did you?

23 A. I have no authority to direct an  
24 investigation.

1 Q. You didn't write anything in your reports  
2 that someone else would rely on looking for other women  
3 that she knew, right?

4 MR. MURPHY: Objection, Judge.

5 THE COURT: No. The objection is overruled.

6 MR. MURPHY: Judge, asked and answered.

7 THE COURT: Overruled.

8 MR. LUFRANO: Can you repeat that.

9 (Record read back by court reporter)

10 THE WITNESS: Correct.

11 BY MR. LUFRANO:

12 Q. Now, "freely socializing," why did you use  
13 those words.

14 MR. CASSIDY: Objection, Judge -- I withdraw the  
15 objection.

16 THE COURT: You may answer.

17 THE WITNESS: Statements by Mrs. Fields were  
18 made in a very general term, and I needed some kind of  
19 term that would indicate a general kind of socializing.

20 BY MR. LUFRANO:

21 Q. Right.

22 She wasn't sure if she was having sexual  
23 relation, right?

24 A. I couldn't answer that.

1 Q. Well, when you got done talking to her,  
2 you weren't sure if she had sexual relations with these  
3 older men and boys, correct?

4 MR. CASSIDY: Objection.

5 THE COURT: Objection is sustained.

6 BY MR. LUFRANO:

7 Q. In fact, when you went looking for her,  
8 you were looking for her on the basis that she might be  
9 having sexual relations with older men and older boys?

10 MR. CASSIDY: Objection.

11 THE COURT: Objection sustained.

12 MR. LUFRANO: Her state of mind, Judge.

13 THE COURT: The objection is sustained.

14 BY MR. LUFRANO:

15 Q. Now, there is nowhere in your report to  
16 indicate that Denise was not sexually active, correct?

17 A. There is no mention either way.

18 MR. LUFRANO: No further questions.

19 MR. CASSIDY: Nothing, Judge.

20 THE COURT: Thank you, ma'am, you may step down.

21 (Witness excused)

22 THE COURT: Call your next witness.

23 MS. PLACEK: Judge, because these are the only  
24 two witnesses for -- as I indicated, because these are

1 counsel that these are relevant witnesses, and, but for  
2 inadvertence and perhaps oversight and the unfortunate  
3 circumstance of a witness having met with the accident  
4 or unfortunate occurrence that prevented her from being  
5 here, those witnesses would be available to testify.

On that basis, the Court has determined  
that in the interest of justice a continuance on behalf  
of the Defendant should be granted and is granted. May  
21st.

10                   MR. CASSIDY: Judge, will the record reflect on  
11                   the last court date counsel said she had one witness  
12                   who could not come to court. The other witness who  
13                   received the gunshot wound, Paulette Townsend's name  
14                   never came up, and that witness was not here because of  
15                   the Defendant's last court date and that witness is not  
16                   here today.

17 (WHICH WERE ALL THE PROCEEDINGS HAD)

18

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21

22

22

24

1450

1 STATE OF ILLINOIS )  
2 ) SS:  
2 COUNTY OF COOK )  
  
3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
4 MUNICIPAL DIVISION - FOURTH MUNICIPAL DISTRICT  
  
5 THE PEOPLE OF THE )  
5 STATE OF ILLINOIS, )  
6 Plaintiff, )  
7 -vs- ) NO. 88 CR 12517  
8 JEROME HENDRICKS ) MURDER, etc.  
9 Defendant. )  
  
10

11 REPORT OF PROCEEDINGS had in the  
12 hearing before the Honorable LEO E. HOLT,  
13 Judge of said Court, on the 29th  
14 day of May, A.D. 1991.

15 A P P E A R A N C E S:

16 HONORABLE JACK O'MALLEY,  
17 State's Attorney of Cook County, by:  
17 MR. JOHN MURPHY, and  
18 MR. SCOTT CASSIDY,  
18 Assistant State's Attorneys,

19 appeared on behalf of the People;

20 HONORABLE RANDOLPH STONE,  
21 Public Defender of Cook County, by:  
21 MS. MARIJANE PLACEK, and  
22 MR. VINCENT LUFRANO,  
22 Assistant Public Defender,

23 appeared on behalf of the Defendant.

24 Clarice Reed, C.S.R.  
24 Official Court Reporter

2                   1                   THE CLERK: People vs. Jerome Hendricks.

2                   2                   THE COURT: Both sides ready?

3                   3                   MS. PLACEK: Yes.

4                   4                   THE COURT: Call your next witness.

5                   5                   MS. PLACEK: In this particular matter as I  
6                   discussed previously with the state's attorney, we  
7                   would have intent to call a ~~non-witness~~ as an  
8                   ~~witness of proof~~, judge.

9                   9                   We would be submitting to the court what  
10                  is purported to be a general progress report of a  
11                  statement made by her on that evening in this matter.

12                 12                 In this matter, judge, as the court  
13                 knows -- and I apologize for my voice. I recently had  
14                 oral surgery. And I sound rather interesting at least  
15                 to my own ear.

16                 16                 But the point being that this was the  
17                 out-of-state witness for the purpose of testimony that  
18                 we were going to call. A young lady in the audience  
19                 currently, ~~Denise~~ Porter who is present in court and  
20                 willing to take the oath, was attempting to assist us  
21                 in getting the young lady who since moved out of  
22                 state.

23                 23                 All was fine except for approximately two  
24                 and a half weeks ago in attempting to arrange travel,

2           1       Miss Porter stated to me that she in a conversation  
3           2       between herself, the proposed witness, and the  
4           3       proposed witness' sister -- this was a telephonic  
5           4       conversation -- stated to me that the witness stated  
6           5       that she was threatened and would not come up to the  
7           6       City of Chicago and would not testify before this  
court.

8                      For this reason, judge, this is the offer  
9                      of proof. If the court wishes, Mrs. Porter is present  
10                  in court and will take the oath in regard, in the  
11                  regard of the conversation with Ms. Wittertake.

12                  The persons or person who made the  
13                  alleged threats against her life was not disclosed  
14                  through any kind of questioning.

15                  THE COURT: You are offering this document as  
16                  an offer of proof.

17                  MS. PLACEK: As to what this witness would have  
18                  testified to, as to the statement contained in the  
19                  general prosecuting report, judge.

20                  THE COURT: State?

21                  MR. MURPHY: Judge, from what I understand, the  
22                  defendant is not asking for a continuance. The  
23                  defendant is asking to just make an offer of proof as  
24                  to what this witness' testimony would be.

2           1           MS. PLACEK: That's correct.

2           2           MR. MURPHY: Is that correct?

3           3           MS. PLACEK: That's correct.

4           4           MR. MURPHY: My only question would be the form  
5           in which it's being made. I don't believe I have a  
6           right to oppose an offer of proof. I believe that can  
7           be made at any time by any party.

8                 However, I don't really understand  
9           exactly what is being offered. I know there was a  
10          report there, what form that's going to take. And for  
11          that matter, what purpose it would serve because the  
12          witness is not here. The court has given numerous  
13          continuances to bring this witness in. I can't  
14          understand what point there is even to make an offer  
15          of proof.

16          THE COURT: I take it this document is being  
17          offered to prove that if the witness were to take the  
18          stand, that she would testify on -- I presume "last  
19          Thursday" must mean August -- what date?

20          MS. PLACEK: August 4.

21          THE COURT: On August 4.

22          MS. PLACEK: Either three or four, according to  
23          the statement she gave me originally.

24          THE COURT: Last Thursday I guess then would be

2           1       August 3 or 4 at about 11 o'clock at night, she saw  
2           2       two men in the alley walk towards the front house and  
3           3       then turn into the garage with a dull flashlight.

4                     And the two men were black, ages unknown.  
5                     Both men were between five feet nine and six feet  
6                     tall. The first man who was a male black wore a white  
7                     shirt. And the rest of it I can't read very much.  
8                     But that's what it is being offered for.

9                     MS. PLACEK: For purposes of the record, judge,  
10                   the specific garage spoken of would, of course, be the  
11                   garage -- and I believe the counsel will assert to  
12                   this -- the garage where the body was found. That's  
13                   what the questioning was about.

14                   MR. MURPHY: I never spoke to this witness. I  
15                   would only be guessing what she is referring to. I  
16                   really have no idea.

17                   THE COURT: That's what the document shows.  
18                   That's what I stated the offer of proof is. And it  
19                   will be received and made a part of the record.

20                   Anything further?

21                   MR. MURPHY: Judge, my only question is just so  
22                   the record is clear, I don't know what day Thursday  
23                   would fall on.

24                   THE COURT: The court can take judicial notice

2           1       of that. I can't do it without a calendar. But I can  
3           2       take judicial notice of what date that was. This  
4           3       document is dated August 8.

3           4       MR. MURPHY: For what it is worth, it would  
5           5       have been the 4th.

6           6       MS. PLACEK: That's what we stated, judge.

7           7       MR. MURPHY: If that will clarify the record.

8           8       THE COURT: Anything further?

9           9       MS. PLACEK: No, judge. With the presentation  
10          10      of that, we rest.

11          11      THE COURT: Defense rests. State?

12          12      MS. PLACEK: May I tell my witnesses they can  
13          13      leave or stay, depending?

14          14      THE COURT: Yes.

15          15      MS. PLACEK: Thank you.

16          16      THE COURT: State?

17          17      MR. MURPHY: We have no witnesses in rebuttal.

18          18      THE COURT: State rests in rebuttal.

19          19      THE COURT: Both sides are ready for arguments?

20          20      MS. PLACEK: Yes, judge.

21          21      THE COURT: State?

22          22      MR. MURPHY: Yes, judge, we are ready. If I  
23          23      can have just 30 seconds.

24          24      We are ready to proceed. Your Honor, the

3           1       the state would waive opening argument and reserve  
4           2       rebuttal.

3                   THE COURT: Mrs. Placek?

4                   MS. PLACEK: May we have one moment, judge?

5                   THE COURT: Surely.

6                   MR. MURPHY: I would ask for another moment  
7                  before we proceed any further.

8                   MR. MURPHY: Judge, I would like to make an  
9                  argument, if I may.

10                  THE COURT: You may proceed.

11                  CLOSING ARGUMENT ON BEHALF OF PLAINTIFF

12                  MR. MURPHY: Your Honor, this case has been on  
13                  trial for the past five months, approximately. And  
14                  the court has heard the state's case in chief during  
15                  the time period of the last -- approximately the last  
16                  two weeks of January of this year.

17                  THE COURT: This case started on February 7.

18                  MR. MURPHY: I believe this case started the  
19                  end of January. That's my recollection. I am sorry,  
20                  it was February 5, 1991.

21                  In any event, judge, this case has been  
22                  on trial before your Honor for a period of  
23                  approximately four months. And your Honor has before  
24                  you evidence that you have heard some four months ago,

3           1 especially with regard to the state's case.

2                         Judge, you have before you a number of  
3                         charges. One charge I would like to address  
4                         initially, and that is the charge of aggravated  
5                         criminal sexual assault based on the age of the  
6                         defendant and the age of the victim.

7                         I submit to the court that in this  
8                         particular -- with respect to this particular charge,  
9                         there could be absolutely no question whatsoever that  
10                        we have met our burden of proof. The evidence is very  
11                        clear in this case that at the time of this offense,  
12                        the defendant was 17 years of age. The evidence is  
13                        very clear in this case that at the time of this  
14                        offense, the victim was under the age of 13.

15                         And the evidence is very clear in this  
16                         case not only as a result of the corroborating  
17                         evidence, but the statement of the defendant that  
18                         there was sexual penetration.

19                         Regarding the other charges, judge,  
20                         specifically regarding the charge of first degree  
21                         murder, we are well aware that the evidence with  
22                         respect to those charges is circumstantial evidence.

23                         The bulk of the state's case is a  
24                         circumstantial case. And we are also well aware,

3           1       judge, of the standard that's applied in the courts  
4           2       with respect to circumstantial evidence. And that is  
5           3       that in order to find the defendant guilty, the court  
6           4       should or the trier of fact should be able to exclude  
7           5       every reasonable theory of innocence.

8           6       Another factor that I'd like to point out  
9           7       to the court to consider that standard and consider  
10          8       the evidence in this particular case is the statement  
11          9       of the defendant. I submit to the court that in order  
12          10      to find the defendant not guilty, the court would have  
13          11      to conclude the defendant is completely -- was  
14          12      completely truthful when he gave that statement that  
15          13      he gave to the police. Or at least substantially  
16          14      truthful as to what occurred between him and Denise  
17          15      Johnson.

18           16      And I submit to the court that the  
19          17      defense is well aware that the truthfulness of his  
20          18      statement is important with respect to this case and  
21          19      they are aware of this at a very early stage in the  
22          20      proceedings even before the trial in this case began.

23           21      Judge, when you apply the standard which  
24          22      I have described, the defendant should be found  
25          23      guilty. If you are able to exclude every reasonable  
26          24      theory of innocence, the operative word is reasonable.

3                   1                   And that's the word that should be and  
 2                   the standard that should be applied when you consider  
 3                   the evidence in this particular case. In order to  
 4                   believe what the defendant tells this court or tells  
 5                   the police and this court heard, the court would have  
 6                   to believe a set of circumstances, a set of  
 7                   coincidences, and have to be able to make leaps in  
 8                   logic which I submit are completely beyond belief.

9                   Initially in the defendant's statement,  
 10                  even to believe the beginning of the defendant's  
 11                  statement, the court would have to believe that Denise  
 12                  Johnson on August 1, 1988 was a willing participant in  
 13                  a sexual act, a deviat sexual act with the defendant  
 14                  on the garage floor of an abandoned garage next to the  
 15                  store where the defendant lived.

16                  In this particular case, not only in the  
 17                  trial, but as I read the transcripts and the  
 18                  memorandum that have been filed in this case, the  
 19                  defendant has directly accused this twelve year old  
 20                  girl of being the equivolent of a prostitute, a hoar,  
 21                  or at least someone who is loose; or certainly has  
 22                  made that inference about Denise Johnson.

23                  And that's important to the defense case,  
 24                  in their case. Because the defendant in order to get

4           1       to first base has to persuade this court that Denise  
5           2       Johnson would willing go to this garage and go into  
6           3       this garage, go down on the floor and have sex with  
7           4       the defendant on the garage floor.

8           5       However, judge, that argument, that  
9           6       allegation with respect to Denise Johnson is  
10          7       contradicted by the evidence. And if the court heard,  
11          8       numerous questions were asked of witnesses by the  
12          9       defense with respect to Denise Johnson's background.  
13          10       And there was absolutely no evidence whatsoever to  
14          11       support the allegation or the inference that the  
15          12       defendant has tried to make about Denise Johnson.

16          13       To the contrary, the evidence in this  
17          14       case shows or could be inferred that Denise Johnson  
18          15       was an average typical twelve year old girl, that she  
19          16       was not a runaway. There is no evidence in this case  
20          17       that she liked men in any abhorrent way or that she  
21          18       had any sexual relations with men.

22          19       But when the court considers what the  
23          20       defendant tried to do during this trial, and that is  
24          21       plant a seed in the court's mind about who Denise  
               22       Johnson is and what she wanted, it is easy to  
               23       understand what the purpose of the defendant was.  
               24       Because that's the first step the defendant has to

4           1 take in order to persuade this court to what the  
5           2 defendant told the police and the assistant state's  
6           3 attorney, Anna Democopolous is true.

4                         And even if you are willing to believe,  
5                         judge, what the defendant said about Denise Johnson is  
6                         true, even if you are willing to make that leap in  
7                         logic to buy what the defendant is alleging about  
8                         Denise Johnson, he asks you to go further. Because  
9                         you have to go further to believe what he says.

10                  And your Honor, as you consider  
11                         additionally what the defendant said in his statement,  
12                         I point to a number of cases which were cited in the  
13                         brief that we find in the motion for directed finding.  
14                         And those cases are, without having to go over them  
15                         again in detail, those cases stand for the proposition  
16                         generally that evidence is sufficient to support a  
17                         conviction. And in many of those cases a conviction  
18                         for first degree murder, even where the defendant  
19                         denies committing the offense, but where the  
20                         defendant's admission or statement connects him enough  
21                         with the offense to support that conviction.

22                  And I submit to the court that that's  
23                         what we have here in this case, along with the other  
24                         corroborating evidence.

4                         Look at the factors. Look at some of the  
5                         evidence that comes out through the defendant's  
6                         statement, what he asks this court to believe, the  
7                         stretch in logic that he asks this court to make.

8                         The defendant in his statement asks this  
9                         court to believe that Denise Johnson, a girl who  
10                         didn't even live in this neighborhood, who was  
11                         actually baby-sitting for her cousin, led him, led him  
12                         to an abandoned garage next door to his house.

13                         The defendant in his statement asked this  
14                         court to believe that she led him there. And even  
15                         though she had rebuffed him earlier, that she led him  
16                         there for the purpose of having sex with him on the  
17                         garage floor.

18                         And that in fact, the evidence in this  
19                         case showed that she was found on that same garage  
20                         floor in the same garage some eight days later. The  
21                         defendant would have this court believe in his  
22                         statement that he had sex with her voluntarily and  
23                         that was all the contact he had with her on the very  
24                         same night that she disappeared from her family.

25                         The defendant would have this court  
26                         believe that when he found Denise Johnson some three  
27                         or four days after she disappeared and at that time,

4           1 according to him, she was dead, that the shirt was  
5           2 still over her neck in the same way as when he left  
6           3 her.

7           4 And that is in his statement, judge. And your  
8           5 Honor will have an opportunity to look at the  
9           6 pictures, to look at the picture of Denise Johnson as  
10          7 she was found with the her top actually tied around  
11          8 her neck. The top was tied.

12          9 And the defendant, according to the  
13          10 statement he made, said that that shirt was in the  
14          11 same position as when he left her. Why, according to  
15          12 him, does he leave her in that garage with a shirt  
16          13 tied around her neck?

17          14 And why, coincidentally. When he comes  
18          15 back.

19          16 MR. LUFRANO: Objection. There is nothing in  
20          17 there that the defendant ever said anything about  
21          18 tying anything.

22          19 THE COURT: The objection is overruled Mr.  
23          20 Lufrano. I heard the evidence, and I will resolve the  
24          21 differences if any between the statements of counsel  
25          22 and the evidence as I heard it.

26          23 MR. MURPHY: Judge, if there is any question at  
27          24 all, let me read from the statement what the defendant

5           1       says about the shirt around the victim's neck. I am  
6           2       reading from Page 4 of the statement.

3                      When he went into the garage, Mr.  
4                      Hendricks stated he saw something that looked like a  
5                      body and went over to see what it was. He said that  
6                      it was the same girl that he had sex with, and the  
7                      shirt was still in the same position over her head.

8                      I submit to your Honor that the statement  
9                      that I have read to you speaks for itself. The  
10                     defendant asks you to believe, judge, what he says,  
11                     according to what he says in his statement, that he  
12                     had consensual sex with this girl. And yet, he went  
13                     out early the next morning looking for an alibi  
14                     witness, attempting to create an alibi witness through  
15                     Michael Walker.

16                     Here is a man who, according to him,  
17                     should not have much to worry about because he had  
18                     consensual sex with a willing participant. In fact, a  
19                     girl who wanted it from him.

20                     And yet he shows uncommon energy in  
21                     waking up early the next morning and going out and  
22                     finding Michael Walker so that he can have Michael  
23                     Walker say that they were together the night before.

24                     What does Jerome Hendricks have to worry

5           1       about? This girl, according to him, wanted to have  
6           2       sex with him.

3                     And why does he get out early the next  
4                     morning looking for Michael Walker in order to create  
5                     an alibi for himself? Unless there is something more  
6                     involved, judge. What the defendant was trying to do,  
7                     your Honor, was set up an alibi for a murder.

8                     Another question is raised, judge, when  
9                     you consider his statement. This business about  
10                  finding the body. The first question that struck me,  
11                  judge, is why does the defendant say he even found the  
12                  body? Why does he say that three or four days later  
13                  he went into that garage and saw that body?

14                  I submit, your Honor, what the defendant  
15                  was concerned about, and this is just speculation,  
16                  judge, but I think it is a fair inference, what the  
17                  defendant was concerned about was that the police  
18                  would find his fingerprints either in the garage, in  
19                  the area of the floor, or some where around the body.

20                  And if you recall, the defendant said he  
21                  actually touched that body. So perhaps the defendant  
22                  had some concern about any other physical evidence  
23                  that would put him inside that garage.

24                  MR. LUFRANO: Objection. This is total

5           1         speculation, not supported by the evidence.

2                      THE COURT: And it will be treated accordingly.

3                      Mr. Lufrano. The objection is overruled.

4                      MR. MURPHY: But your Honor, what's interesting  
5                      is what the defendant does after he quote, unquote,  
6                      "finds the body". And that is that he leaves that  
7                      little girl there, leaves her body there. And there  
8                      is really no explanation that makes sense other than  
9                      the fact that he is trying to hide the murder that he  
10                     committed.

11                     What is more important here? If he is  
12                     concerned about having sex with a young girl, the  
13                     least he can do is call the police or call somebody  
14                     anonymously. He doesn't do that. He leaves that body  
15                     there to rot in that garage until it is found  
16                     approximately five days later.

17                     Judge, as you consider the defendant's  
18                     statement, more questions arise than are answered.  
19                     The defendant's statement raises questions and asks  
20                     this court to accept the set of coincidences and  
21                     circumstances that absolutely don't make sense. And  
22                     again we have to go back to what the defendant says  
23                     about Denise Johnson in the first place. That she was  
24                     a willing participant. That this twelve year old girl

5 1 wanted to have sex with him on the garage floor.

2 And judge, if you consider the evidence  
3 in this case, I think that when you apply the standard  
4 that the courts discuss with regard to circumstantial  
5 evidence, and that being has every reasonable theory  
6 of innocence been eliminated, I think there is only  
7 two other ways that this girl could have been killed.

8 And one of the ways is what the defense  
9 has alluded to, even with the attempt to offer  
10 evidence or make the offer of proof in this case. And  
11 that is that Denise Johnson left that garage alive  
12 after the defendant left her in there. This girl who  
13 had never run away from home, been away from her  
14 family for a night, not one single night.

6 15 MS. PLACEK: Objection; misstatement of  
16 evidence, judge.

17 THE COURT: The objection is overruled. I  
18 heard the evidence and I will resolve the differences  
19 between the evidence and the statements of counsel, if  
20 any.

21 MR. MURPHY: Well, judge, I know the court  
22 heard the evidence. The only evidence we heard in  
23 this case is at one time, Denise Johnson who had moved  
24 from her grandparent's house, walked back towards her

6           1         grandfather's house, in fact spoke to her grandfather,  
7           2         and she was missing for a short period of time. Their  
8           3         mother or her stepmother who was concerned about her  
9           4         called the police. And in fact, it turned out she  
10          5         went to her grandparent's house. And that was it.

11           6         No evidence in this case that this girl  
12          7         ever left her home, no evidence in this case that this  
13          8         girl was ever a run away. No evidence to support that  
14          9         whatsoever.

15           10       In any event, judge, one possible theory  
16          11       of innocence which the defendant has tried to put  
17          12       forth in this case is that this girl was left there  
18          13       alive, and she walked out of that garage. That she  
19          14       untied the top off of her neck, that she put her shoe  
20          15       laces back on her shoes. Because the defendant did  
21          16       say that she put something around her head like a rope  
22          17       or a shoelace.

23           18       That after she put her shoe laces back on  
24          19       her shoes, that she went out of that garage and  
25          20       brought somebody else back in to the same garage some  
26          21       time between August 1 and the day she was discovered.  
27          22       And that somehow this other person, who we don't know,  
28          23       put her top around her neck in the same way, took her  
29          24       shoe laces off again and either put them around her

6           1       head or her face or wound up being her neck, and tied  
7           2       the other shoe lace, tied her hands together behind  
8           3       her back.

9           4       That's one of the theories we are  
10          5       supposed to believe. But judge, the standard is that  
11          6       that be reasonable. And I submit to the court that  
12          7       that is absolutely absurd. It is absurd to believe.

13          8       And the other theory of innocence which I  
14          9       can think of, if there is any, is that this girl, the  
15          10      defendant, if you believe him, walked out of this  
16          11      garage and left this girl there on the floor. And  
17          12      that somebody was lurking around the garage or outside  
18          13      the garage. And that that person went in and killed  
19          14      her. And that that person was undiscovered by the  
20          15      defendant, and the defendant just left the girl there.

21          16      I submit, judge, that is absolutely  
22          17      ridiculous, too. There is no proof of that. There is  
23          18      no evidence. And it is not a reasonable theory of  
24          19      innocence, judge. And I submit to the court that  
               20      there is no other theory that could be even advanced  
               21      in this case. And your Honor heard during the course  
               22      of this trial evidence of other crimes. And I don't  
               23      know how the court is going to treat that.

24           The court heard evidence that the

6           1       defendant had raped two other women in what we submit  
7           2       were very similar circumstances. And your Honor, that  
8           3       evidence was offered for two reasons. One, we wanted  
9           4       the court to see that in this case Denise Johnson did  
10          5       not consent to what the defendant said. And in this  
11          6       case the defendant intended to rape her.

12           7       And another reason we offered that  
13          8       evidence is to show something that the defendant does  
14          9       which is unique to him. And that is his fixation with  
15          10      the victims' necks, the women's necks who he rapes.  
16          11      That he put a rope around the neck of one victim when  
17          12      he was raping her.

18           13      And in this particular case, judge,  
19          14      Denise Johnson had ligatures, her top and her shoe  
20          15      lace, around her neck. And your Honor can consider  
21          16      that when considering intent as to the aggravated  
22          17      criminal sexual assault charges involving force, and  
23          18      as to the other charges involving force.

24           19      And that's the evidence, judge, that we  
25          20      produced in this case. But the defense chose in this  
26          21      case to put on a defense. And what was the defense  
27          22      that we heard?

28           23      Well, we heard Dr. Jumbelic testify. And  
29          24      basically on cross-examination, the substance of it

6           1       was about a report on Channel 7 which had absolutely  
            2       nothing to do with this case.

7                          Another part of the defense in this case  
8                          was attempting to portray Denise Johnson as a  
9                          prostitute. But judge, although the finger was  
10                         pointed at her and those allegations were made or  
11                         certainly inferred, there is absolutely no evidence in  
12                         this case to support that. None whatsoever.

20                           And the defendant's statements about what  
21                           happened is so outrageous, judge, that it is an insult  
22                           to common sense. It really is. And if anything, what  
23                           that statement does do is point to him as the person  
24                           who killed her.

7                   1                   Judge, I am asking that you find the  
2                   defendant guilty on all of the charges. Thank you.

3                   THE COURT: Miss Placek?

4                   CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

5                   MS. PLACEK: Your Honor, very briefly, it  
6                   wasn't -- and first of all, it is in no way the  
7                   defense's position that we should portray anyone,  
8                   especially a dead girl, as a prostitute. But we have  
9                   to deal with the facts as they came out during the  
10                  trial.

11                  First of all, judge, it wasn't us who  
12                  said that Denise Johnson was a run away, habitual run  
13                  away. It is what her people said to the police when  
14                  she became missing on August 1. It wasn't {us|you is}  
15                  who said that Denise Johnson had an interest in older  
16                  boys and in men.

17                  MR. MURPHY: Objection, judge. There was no  
18                  evidence of that.

19                  THE COURT: Overruled. I have heard the  
20                  evidence. I will resolve any differences between the  
21                  statements of counsel and the evidence that was  
22                  adduced.

23                  MS. PLACEK: We would point out, judge, that  
24                  during the defense's case, we presented police

7           1       officers and youth officers who said that both her  
 2       legal guardian, that her aunt/cousin and her  
 3       grandfather had given that same description of Denise  
 4       Johnson at the time when they were looking at her when  
 5       they thought she was a missing person.

6                          The court found other things out from in  
 7       fact the statements of her family when they still  
 8       believed she was a missing person. And that was  
 9       simply this. They not only found out that all of the  
 10      sudden coincidentally at the age of 12, when the girl  
 11      reached the age of puberty, that she became a problem.  
 12      That, if the court remembers during -- strike that.  
 13      During the direct examination of the officer who was  
 14      presented for impeachment by Mr. Lufrano --

15                          MR. MURPHY: Objection. that's not evidence.

16                          THE COURT: Overruled.

17                          MS. PLACEK: He asked whether or not there was  
 18      statements made by the guardian of whether or not  
 19      because of this dating of older boys and men that the  
 20      legal guardian considered her a problem. And the  
 21      legal guardian described her as a problem.

22                          Now, judge, in an attempt to shift the  
 23      burden of proof, the state said that we had to present  
 24      to you a reasonable hypothesis of innocence. I would

7           1 point out that not only is this incorrect, but I would  
8           2 point out that furthermore, the facts as presented not  
9           3 only present an alternative to the state's case, but I  
10          4 would also point out, judge, that certain missing  
11          5 elements, and again relying on the cases cited in our  
12          6 memorandum of law, I would ask the court to consider  
13          7 if legally, at this point in the trial, that they can  
14          8 even get by the issues that they failed to present to  
15          9 sustain a conviction.

16                 Now first of all, judge, when you go back  
17          10 to the August 1 date about the argument that was had  
18          11 that precipitated Denise Johnson leaving her home, you  
19          12 had an argument not against Mr. Hendricks, but the  
20          13 inference that can be taken from that argument that  
21          14 she had was that since she left, and again this was  
22          15 pointed out not only by the police reports, but also  
23          16 by the instances of the testimony of her cousin/aunt,  
24          17 that in fact she was speaking to Mr. Hendricks when  
25          18 her family objected, she went in the house for  
26          19 approximately 20 minutes, and they argued over it.

27                 Now, in order to have an argument, common  
28          21 sense leads you to believe that first of all, you have  
29          22 to have two sides, one opposing and one for. And  
30          23 since her family was supposedly at that time against

7           1         her seeing this older man, Mr. Hendricks, that Denise  
8           2         Johnson was on the other side of the argument which  
9           3         would present her for Mr. Hendricks.

10           4         Now, what does that give you? That  
11           5         Denise Johnson and that the facts contained within Mr.  
12           6         Hendricks' statement are in fact logical and in fact  
13           7         conclusive to in fact the presentation of the theory  
14           8         as the defense laid out.

15           9         Number one, what did she do? She left  
16           10        the house. No. 2, after leaving the house, what  
17           11        happened? We don't know. And the reason we don't  
18           12        know is because the state through their own experts  
19           13        has failed to prove the time of death.

20           14        Now in the Bill of Particulars, we have a  
21           15        time of death mentioned. But it becomes interesting  
22           16        that that Bill of Particulars becomes a fallacy for  
23           17        the simple reason that we have her again through the  
24           18        testimony presented to this court, supposedly seen her  
25           19        alive after that time of death several days after, not  
26           20        only seen alive after, but that this belief is so  
27           21        reasonable and so logical that the police take action  
28           22        with Mrs. Fields to in fact come about and bring about  
29           23        the finding of this girl.

30           24        Now, what else do we have after this?

8           1 Well, we have supposedly the circumstantial evidence  
9           2 of the defendant's statement. And that's supposed to  
10          3 be the big thing that will link him into this crime.  
11          4 Because it is supposed to be so totally unreasonable.

12          5 As already presented, Denise Johnson did  
13          6 not find Jerome Hendricks an affirmance. That's why  
14          7 she left her home. That's what the logic and that's  
15          8 what the statement of the police originally stated. I  
16          9 am speaking of the statement of her family.

17          10 Finally, we have the idea of consensual  
18          11 sex. Consensual sex is all that's spoken from in this  
19          12 statement. But one of the things that the state  
20          13 failed to bring up before you is the fact that, number  
21          14 one, in reading the statement, the court is allowed to  
22          15 take the circumstances under which the statement was  
23          16 made. Not only the circumstances under which the  
24          17 statement was made, but the care of the statement, the  
              18 care under which it was taken.

19           19 Now, needless to say, at the particular  
20          20 time of the taking of the statement, Mr. Hendricks  
21          21 could read and write English. And if the court  
22          22 remembers, there was a bit of cross-examination  
23          23 between myself and the assistant state's attorney as  
24          24 to why she didn't have him write out the statement.

8                   1                   Well, what we find out is that she  
9                   2                   essentially wrote a summary of a summary of a summary.  
10                  3                   A summary of what she was told by Mr. Hendricks in the  
11                  4                   conversation, a summary of what she read in the police  
12                  5                   reports. And again I'd ask the court to go through  
13                  6                   its notes. And a summary again of what she was told  
14                  7                   by the police that Mr. Hendricks in fact stated.

15                  8                   Well, the reliability of this summary of  
16                  9                   a summary of a summary is further called into question  
17                  10                  by the fact that number one, you have an interesting  
18                  11                  thing evolving in the accuracy contained within the  
19                  12                  statement. And the reason I am bringing up the  
20                  13                  accuracy of the statement is simply because of the  
21                  14                  fact that Mr. Hendricks, and again the court can go  
22                  15                  through what he went through because the court both  
23                  16                  heard the motion and the court also heard the  
24                  17                  testimony of the stand, what he went through prior to  
                       18                  giving that statement. And the condition of his mind  
                       19                  at the time of giving the statement.

20                  20                  The condition of his mind would be,  
21                  21                  "Let's get it over with. Let me tell you what  
22                  22                  happened, and fine."

23                  23                  Well, how does that become relevant to  
24                  24                  what's in there and what is signed? Much is made by

8       1       the state about it stating that he walks in and sees  
2       the shirt in the same position. Again, the court has  
3       the statement in evidence.

4                          The court has heard the testimony and the  
5       court will see that Mr. Hendrick's words, as few as  
6       they are, on the statement are put into quotes.

7                          Now, the reason the casualness of  
8       language becomes important is this. Number one, the  
9       assistant state's attorney spoke about making  
10      corrections on the statement to ensure the accuracy.  
11      She spoke of misspellings being corrected.

12                         And when looking over the statement as I  
13      am sure the court would, I would ask the court to  
14      consider first of all that number one, not only are  
15      there multiple misspellings that weren't corrected,  
16      but that this casualness would encourage the defendant  
17      to think that he was merely telling him the truth.

18                         And that the accuracy of his words, the  
19      preciseness of his words as taken by this woman beared  
20      no meaning, beared no relevancy.

21                         Next, we have the fact that by not  
22      showing the date of death, we don't know when this  
23      crime occurred. Thus giving logic and reason to the  
24      defendant's statement. The logic and reason is that,

8           1       No. 1, you have consensual sex. And No. 2, no murder  
 9           2       is ever spoken about. No. 3, you have the other issue  
 10          3       dealing with the statement that the presumption of in  
 11          4       fact the defendant speaking of the consensual sex with  
 12          5       a minor is in fact itself an incriminating act.

13           6       The idea that the defendant by giving  
 14          7       this statement was somehow trying to get the police  
 15          8       off his back, somehow trying to hide what he  
 16          9       eventually saw, becomes ludicrous. Because  
 17          10       essentially what you do have is you have someone  
 18          11       admitting in a statement to one criminal act. And  
 19          12       when you consider as brought out over the defense's  
 20          13       objection the background of the defendant, this  
 21          14       admission becomes key.

22           15       Because essentially what you have is  
 23          16       someone with the defendant's past conviction rate  
 24          17       admitting to a crime to the police. The veracity of  
 25          18       that increases or rather the risk of that increases  
 26          19       the veracity of the statement.

27           20       I would suggest further, judge, that as  
 28          21       argued in our motion for directed finding and relying  
 29          22       on the cases stated within, specifically People versus  
 30          23       Lee, People versus Cratchner and People versus, I  
 31          24       believe it is, Mendez.

9                   1                   But the court has the brief before it.  
10                  2                   That the suggestion that the state by mere inference  
11                  3                   can leap to the fact that we had a sexual, a forced  
12                  4                   sexual encounter due to the circumstances, becomes  
13                  5                   absurd. Because we would point out that in one of the  
14                  6                   cases suggested where there was the death of a woman  
15                  7                   where in fact there was the disembowelment and where  
16                  8                   the murderer cut off the arms and legs, a  
17                  9                   dismemberment of the body, and where in fact the  
18                 10                   clothes left on the body, the panties and the pants  
19                 11                   were ripped in the crotch area, but because of the  
20                 12                   decomposition, the court said that the state failed to  
21                 13                   prove any sexual assault because there was no medical  
22                 14                   evidence tying to same.

23                 15                   I would point out that at this particular  
24                 16                   grouping of the trial that that's analogous to the  
25                 17                   case we have before the court at bar.

26                 18                   Because with their own expert, not only  
27                 19                   didn't they prove time of death, they also failed to  
28                 20                   prove, judge, they failed to prove any kind of sexual  
29                 21                   assault. Because quite frankly, the psychiatrist said  
30                 22                   because of the positioning of the body and because of  
31                 23                   the state of decomposition, she could not make that  
32                 24                   assessment.

9                   1                   We would further point out, judge, that  
10                  2                   the decomposed state of the body and the  
11                  3                   testimony of the stand does in fact further the  
12                  4                   defendant's reliability in that this murder took place  
13                  5                   after, and several days after he in fact had  
14                  6                   consensual sex with the victim.

15                  7                   The reason for that is this. If the  
16                  8                   court remembers, we asked several things of the  
17                  9                   pathologist who took the stand. One of the things we  
18                  10                  asked was simply in fact would a body lying there in  
19                  11                  90 degree plus heat -- because that was the testimony,  
20                  12                  would there remain any moisture? Would there remain  
21                  13                  any sort of bodily fluids?

22                  14                  And if the court remembers, she testified  
23                  15                  no. If the court also remembers, the officer, and I  
24                  16                  am speaking of the first uniformed officer at the  
25                  17                  scene, we also made inquiries about the body. The  
26                  18                  inquiries we made about the body dealt specifically  
27                  19                  with the moisture.

28                  20                  "Did you see any signs of bodily fluid?"  
29                  21                  And I would ask the court to go back to its notes or  
30                  22                  the transcripts in fact that we have.

31                  23                  His answer was "Yes," he did.

32                  24                  The consistency in fact with the

9           1       defendant's statement goes in fact to the reality that  
 2       what we have here is a very, very ugly crime with  
 3       extremely ugly pictures dealing with an extreme  
 4       tragedy.

5                   But what we also have here is we have  
 6       conveniency both by the police and by the state in  
 7       attempting to blame it on someone not because of hard  
 8       evidence but because it seems like the easiest thing  
 9       to do. We would further point out that we have a  
 10      reason for saying that this casualness in  
 11      investigation is in existence because of the fact that  
 12      all the court has to look at is police conduct.

13                  Even when this person was missing, Denise  
 14      Johnson, the police in their attempt to locate her,  
 15      were both casual and laxed in that No. 1, and I am  
 16      referring I believe to an officer, and I believe it  
 17      was Officer Caddigan, doesn't even take down the name  
 18      of the two women who in fact after showing a picture  
 19      to them, saying that they see her alive long after the  
 20      date that the state has presumed her dead --

21                  MR. MURPHY: Objection. That's not the  
 22      evidence, judge.

23                  MS. PLACEK: May I continue, judge?

24                  THE COURT: I am trying to think of what the

10       1       evidence is in this regard. And it is very sparse, if  
11       2       any.

12                 MS. PLACEK: If the court remembers, judge,  
13       4       there was certain testimony brought on by the  
14       5       defendants. We brought on -- we recalled the officer.  
15       6       I believe that that part was not in fact sustained.  
16       7       The state's objection was not sustained.

17                 8       If the court wishes the transcript, we  
18       9       have it available to it.

19                 10      THE COURT: That portion of the testimony, as I  
20       11      recall it, was not part of the trial in this case.

21                 12      MS. PLACEK: He was called twice, judge, to  
22       13      refresh the court's memory, that officer. And  
23       14      although the court did sustain the state's objection  
24       15      as to part of his testimony, the court, if the court  
will remember both in its notes, and I made an inquiry  
of the court as to whether or not certain things will  
remain dealing with the sustained objection, the court  
said and made a very clear ruling that certain things  
were sustained.

25                 21      But the things that I spoke of, this  
26       22      being one of them, the officer's actions, not asking  
27       23      the name, was in fact overruled. That is, the state's  
28       24      objection was allowed to go into evidence.

10           1           THE COURT: Well, in any event, I am going to  
11           2           receive it as argument. I will have recourse to my  
12           3           notes probably before I decide this issue. I will  
13           4           straighten out the differences between the statement  
14           5           of counsel and the evidence that I have heard.

15           6           MR. MURPHY: Judge, without interrupting  
16           7           defense counsel continually, I would just like to make  
17           8           a standing objection. Counsel has been making  
18           9           arguments. And that one included, with respect to  
19           10          either matters that were not brought out, for example,  
20           11          hearsay statements that were not allowed in.

21           12          THE COURT: I am aware of that.

22           13          MR. MURPHY: And also impeachment which is not  
23           14          evidence, and areas where there was no impeachment.

24           15          THE COURT: I am aware of the distinction.

25           16          MR. MURPHY: Thank you, judge.

26           17          THE COURT: At least I think I am. You may  
27           18          proceed.

28           19          MS. PLACEK: We would further point out in  
29           20          rebuttal to the state's bringing up of the witness,  
30           21          Michael Walker, we would ask the court to consider the  
31           22          mind, memory and ability of Mr. Walker who was brought  
32           23          in from Joliet to testify.

33           24          We would further point out, judge, that

10           1         within a space of five minutes he never, not even --  
11           2         forget about the fact that so-to-speak letter was  
12           3         being offered by the state to be written on his  
13           4         behalf. But I would suggest it again, transcripts are  
14           5         available. He forgot numerous details that would be,  
15           6         let's say, detrimental to the state's case until being  
16           7         reminded that he could testify about them by the  
17           8         state's attorney himself.

18                          We would point out, judge, that the  
19                          original statement of the defendant again verified to  
20                          the police was he saw Michael Walker, not that he was  
21                          looking for Michael Walker, but he saw Michael Walker.  
22                          The first time that we have anything about Mr. Walker  
23                          is when he is brought up to Joliet the first time we  
24                          have anything said that supposedly the defendant tried  
                        to arrange a false alibi, is from the mouth of Mr.  
                        Walker himself.

15                          We would point out, judge, that even if  
16                          the court wishes to believe the absurdity of Mr.  
17                          Walker's testimony, again available in transcript, we  
18                          would point out that quite frankly, it is still  
19                          consistent with the reasonable hypothesis of  
20                          innocence, based upon the fact that again, without  
21                          belaboring for this court that Mr. Hendricks stated to

10           1       the police that he had committed a crime.

2                             The crime, if the court chooses to  
3       believe both the evidence as circumstantially  
4       presented, and in fact the lack of evidence of sexual  
5       assault as presented by the state, was sex with a  
6       minor.

7                             The suggestion that he was trying to  
8       cover up some horrendous crime like a murder, can be  
9       overcome by the reasonableness that one, Mr.  
10      Hendricks, and again, if the court wishes to believe  
11      Mr. Walker in the words of the state cover up, is  
12      simply the consentual sex of a minor.

13                             Now, the state has brought up the proof  
14      of other crimes. The court had made a statement a few  
15      seconds ago that in fact the court thought or thought  
16      it knew what the reason for the impeachment was  
17      brought up to the court or what kind of evidence could  
18      be used.

19                             We would remind the court of how Illinois  
20      holds proof of other crimes. We would remind the  
21      court that the court found itself in a bench trial.  
22      And quite frankly, judge, the defense is still unclear  
23      as to the manner, mode, and method as to what it is to  
24      be considered for, and that is the proof of other

10           1        crimes.

11  
12                   And secondly, judge, we would point out  
13                   that as to the proof of other crimes, we would draw  
14                   the court's attention to in fact the impeachment  
15                   presented to those proof of other crimes as presented  
16                   by Mr. Lufrano in that first of all, as to one of  
17                   them, there was never any mention of any kind of rope  
18                   or neck in this case.

19  
20                   And secondly, as to the other one, the  
21                   one involving the woman who went to the liquor store  
22                   afterwards with the defendant, there was not even any  
23                   charging. But we would ask the court to look through  
24                   its notes and go fully through the testimony of this  
25                   woman and of the police officers later called by the  
26                   defense, that there was not only never any charging of  
27                   this crime, judge, but in fact, there was a disbelief  
28                   all around.

29  
30                   MR. MURPHY: Objection, judge.

31  
32                   THE COURT: Overruled.

33  
34                   MS. PLACEK: We would further point out, judge,  
35                   that again the case of the state, and what essentially  
36                   was promised to you in opening statement is that they  
37                   would show you that, No. 1, that the defendant was the  
38                   last person to see her alive.

11                   1                   I believe, judge, through different  
12                   2                   testimony and different reasons and of circumstances  
13                   3                   we have shown that this is incorrect. That they would  
14                   4                   show you that in fact the defendant was the killer of  
15                   5                   the girl, again, no evidence except for jumps that  
16                   6                   would enable the court not lawfully to leap over the  
17                   7                   presumption of innocence before rendering a  
18                   8                   conviction, because of the fact that no time of death  
19                   9                   has been shown and circumstances that in fact again,  
20                   10                  speaking of the bodily fluids present as testified by  
21                   11                  their officer and presented again by the fact that  
22                   12                  neither one of the gentlemen on cross-examination --,  
23                   13                  strike that -- on direct examination of their  
24                   14                  pathologist dared ask the question.

15                   And again, the court is allowed to go  
16                   into this as to whether or not she had an opinion to a  
17                   reasonable degree of medical certainty when in fact  
18                   the death occurred. That question was never asked.  
19                   And I believe the court is allowed by Illinois law to  
20                   go into the motives as to why it was not.

21                   And we would state furthermore, judge,  
22                   that in fact the statement is not a confession. The  
23                   statement as we constantly objected at best should not  
24                   have been let into evidence because at best, according

11           1       to the theory of the state's case, it is a false  
12           2       alibi.

13                     I believe at one time there was an  
14                     interchange between this court and myself when the  
15                     court said, "Well, I am sure they are taking it for a  
16                     statement." And if they do take it for a statement,  
17                     judge, then it would be our suggestion that they are  
18                     bound by in fact the contents within. And the  
19                     contents within were admitted by their own state's  
20                     attorney to be inaccurate, a summary.

21                     And furthermore, judge, never speaking of  
22                     any kind of murder. So therefore, judge, if they are  
23                     bound by that, the suggestion that a conviction for a  
24                     murder can come, is similar to some sort of Herculean  
25                     task being that the court is being asked to take on  
26                     and shoulder.

27                     Your Honor, very briefly, the court has  
28                     seen the state's case. The court has heard the  
29                     defendant's impeachment. Even without the defendant's  
30                     impeachment, we would suggest while adopting our  
31                     memorandum of law previously presented, and asking the  
32                     court to consider that now the standards are in fact  
33                     differing, that in fact by failing or foregoing to  
34                     prove matters contained within their Bill of

11       1       Particulars, that is the date of death, by in fact  
12           2       failing to show this to the court, that in fact the  
13           3       leaps of imagination that the court is asked to take  
14           4       is just too great.

15                 5       When I opened before this court I  
16                 6       suggested that the only thing that this court could  
17                 7       find the defendant guilty of was the so-called old  
18                 8       statutory rape charge.

19                 9       That would still be our contention at  
20                 10      this time, judge. We, of course, would suggest that  
21                 11      since no evidence pursuant to the law, not leaps of  
22                 12      imagination, not leaps of inference, not ignoring the  
23                 13      presumption of innocence; but pursuant to the case law  
24                 14      presented to the court, can in fact be established.  
25                 15      For this reason, judge, we would be asking the court  
26                 16      to find the defendant not guilty of all charges.

27                 17      (WHEREUPON, there was a change of  
28                 18      reporters.)

29

30

31

32

33

34

(Whereupon there was a change  
of Court Reporters)

THE COURT: State?

MR. CASSIDY: Thank you, your Honor.

## CLOSING ARGUMENT

BY

MR. CASSIDY:

9 Your Honor, I hope you took very good  
10 notes or refer to the transcript. In case you do  
11 have doubts in your mind about what the evidence  
12 was because you heard a lot of misstatements by the  
13 defendant of what the evidence was, out and out  
14 misstatements, Judge, not hear the evidence, but  
15 out and out misstatements, your Honor, of what the  
16 evidence was.

17                   There was no evidence that Denise  
18 Johnson had interest in older boys or men. There  
19 was no evidence that Denise Johnson was a problem  
20 child. There was no evidence as counsel stated  
21 that the victim was dating older men. There was no  
22 evidence of that whatsoever, Judge. And I submit  
23 to the Court, your Honor, that not only was there  
no evidence of it, it simply was not true, Judge.

1  
2 It's sometimes unshallow when you say there was no  
3 evidence of it, so that's why I'm telling you,  
4 Judge, it simply was not true because nowhere was  
5 there any evidence whatsoever, no reports that this  
6 person was dating. She had no interest whatsoever  
in older men.

7 MS. PLACEK: Your Honor, I now have to make a  
8 Motion for Mistrial for the purposes of the record.  
9 I would ask that certain police reports be  
10 introduced. I would suggest that the prosecutor,  
11 under the rules of professional conduct, is, in  
12 fact, found by certain evidence in his statement  
13 that there's no reports that state same. It would  
14 be the suggestion of this Court that this  
15 prosecutor has, in fact, made a misstatement. I  
16 would ask -- And again in order to preserve my  
17 client's objection, I would ask that these reports  
18 be received, Judge.

19 THE COURT: The Motion for Mistrial is denied.

20 MR. CASSIDY: May I proceed, Judge?

21 THE COURT: You may.

22 MR. CASSIDY: Judge, what you have is simply  
23 Denise Johnson who, when this picture was taken,  
24 was 12 years old, she was 12 years old when she

1                   died, and that simply is Denise Johnson, your  
2                   Honor.

3                   Judge, the defense, themselves, spent  
4                   an hour and 10 minutes with Doctor Dubelic  
5                   (Phonetic) on some matter dealing with some report  
6                   by Carol Maurine (Phonetic), which the defense  
7                   heard from the other public defender down at 26th  
8                   Street. No basis whatsoever, they spent an hour an  
9                   10 minutes going over there trying to impeach her  
10                  credibility when she kept on denying the  
11                  allegations submitted to her, but that was the  
12                  defense case.

13                  They also spoke of autoeroticism  
14                  (Phonetic), and Doctor Dubelic told this Court that  
15                  she never heard of it, but they submitted that  
16                  proposition, and it simply was not true, but that  
17                  was the defense case submitted to your Honor.

18                  I submit to this Court, your Honor,  
19                  that Michael Walker, and I believe the evidence  
20                  showed it, Judge, gave a prior consistent statement  
21                  to the police, so he didn't just come up here for  
22                  the first time when he testified in front of your  
23                  Honor. I submit to your Honor that the evidence  
24                  was that he gave a prior consistent statement at

1                   the first interview with the police when this  
2                   occurred which was consistent with the testimony in  
3                   front of your Honor. So whatever motive he may  
4                   have had later on to fabricate was the same  
5                   consistent statement he gave before he even talked  
6                   to any State's Attorney --

7                   MS. PLACEK: Objection, your Honor. Mr. Walker  
8                   stated at the time of giving the statement --

9                   THE COURT: The statement is overruled.

10                  You may proceed.

11                  MR. CASSIDY: So that argument by counsel, your  
12                  Honor, respectfully is without merit because he  
13                  gave a prior consistent statement. The statements  
14                  or argument by defense regarding the statement I  
15                  do not understand. What motive the defendant may  
16                  have for giving the statement?

17                  All I know the evidence showed what  
18                  happened was you had Anna Demacopoulos, female  
19                  State's Attorney along with a Detective Ryan, I  
20                  believe her first name was Joanne, a female  
21                  detective taking a statement from a defendant. I  
22                  submit to the Court there was no evidence  
23                  whatsoever that the defendant was threaten,  
24                  physically or mentally abused, or coerced in any

1 manner to give the statement that he did. I submit  
2 to the Court that the defense attempts to portray  
3 Denise Johnson, 12-year-old Denise, as somewhat  
4 promiscuous, and simply there's no evidence of it,  
5 Judge, because it wasn't true. And, your Honor,  
6 Denise would not have gone along with the  
7 defendant. I submit to you there's a strong  
8 inference why she would not have is because  
9 Yolanda, just minutes before they told her that  
10 he's a rapist, and that's what the evidence was.  
11 So I submit to the Court she did not go anywhere  
12 freely and voluntarily with the defendant, Judge,  
13 and that's what the evidence showed.

14 I submit to the Court from the getgo  
15 of the case the defense attempted to portray Denise  
16 Johnson that way, to somehow or other, your Honor,  
17 to just create whatever wild imagination you may  
18 have. I mean, am I going to stand in front of  
19 your Honor and say 12 year olds aren't promiscuous,  
20 because no I'm not because maybe some 10 year olds  
21 are, but in this case, there's no evidence of it,  
22 but -- Strike that. The defense in a bad way here,  
23 Judge, he has to create something here, your Honor,  
24 and perhaps that's his only out, and after all,

1                   Judge, it is consistent with the defendant's  
2 thinking because if you look at what he did do to  
3 this poor little 12-year-old girl and others who  
4 testified in this case, you can see he treats  
5 girls, especially young girls as dish rags, in his  
6 way of mind they are promiscuous. In his way of  
7 mind, they have that coming to them. In his way of  
8 mind, he doesn't care what happens to them. He  
9 will rape them. He will put something around their  
10 throat. He would want to ride them like a horse.  
11 That's his way of thinking, so the defendant is  
12 consistent to the type of person he is. I submit  
13 to the Court that poor little Denise Johnson, when  
14 she's 12 years old, the little girl who takes time  
15 to write Denise in the insteps of her shoe. I  
16 submit to the Court when she's on that dirty floor  
17 with the garbage cans around her, and you got this  
18 guy on top of her with pulling off her shirt top  
19 and tying it around her neck, I submit to the  
20 Court, she didn't like it, and she wasn't agreeing  
21 to it. I submit to the Court that she wasn't  
22 thinking like he says she wanted more, but rather  
23 maybe, "Mommy, where are you?" or "Grandma,  
24 grandpa, where you when I need you? Why did I

1 leave from that porch 50 feet away. I thought I  
2 was safe." That's what she was thinking, not being  
3 synergic like the defendant states.

4 I submit to the Court she was walking  
5 within the site of where she was. That's where she  
6 was, Judge. She was right there. Maybe she could  
7 walk 50 feet she figured. Maybe she could walk  
8 down the alley. She didn't know he was there. Is  
9 there anything wrong with walking 50 feet away from  
10 her house? She didn't go voluntarily with him, but  
11 he would have you believe she liked it. She liked  
12 it when he was taking off her top and he's entering  
13 her back. She would have you believe she liked  
14 that. I submit to the Court that as she was  
15 gagging, Judge, she was trying to cry out.

16 MR. LUFRANO: Objection, your Honor. This is  
17 way beyond any evidence here.

18 THE COURT: The objection is overruled.

19 MR. CASSIDY: I submit to the Court people  
20 couldn't hear her screams, Judge, because he tied  
21 that thing around her throat as he was raping her.  
22 I submit to the Court, your Honor -- First of all,  
23 Judge, counsel cites case law, which I submit to  
24 the Court really isn't relevant. What it comes

1 down to is common sense. You're the fact finder.  
2 I submit to the Court that's all you are is a fact  
3 finder. I submit to the Court if it was a jury,  
4 Judge, just use your common sense, and if you use  
5 your common sense, your Honor, everything points to  
6 him, everything, Judge. The last person seen with  
7 the little 12-year-old girl is him, the guy who  
8 likes to use -- tie things around people's neck  
9 when he's having sex with them, this guy  
10 (Indicating).

11                 The body is found next door to where  
12 he lives. It's an abandoned garage. It's found  
13 next door -- Of all the people in the universe, of  
14 all the billions of people, or just in the city of  
15 Chicago, all the millions of people in Chicago,  
16 where is the body found? Next door to him in his  
17 garage, and he's the last person with her. Use  
18 your common sense, Judge.

19                 The statement he gives to the  
20 Assistant State's Attorney, Anna Demacopoulos, and  
21 Ryan, and he says, "I was in there having sex with  
22 her in the very same garage where her body was  
23 found," and he said she wanted to be ridden like a  
24 horse. He admits to it. The only thing he doesn't

1 admit to is the murder, Judge.  
2

3 MR. LUFRANO: Objection to the admission.  
4

5 THE COURT: The objection is overruled.  
6

7 MR. CASSIDY: The only thing he doesn't admit  
8 to, Judge, is murder.  
9

10 Counsel brought up the fact why would  
11 this guy give up a statement he's been down there  
12 before? As your Honor knows, they aren't brain  
13 surgeons, people who commit those offenses, and if  
14 they keep their mouth shut, they usually get away  
15 with it. I submit to the Court he told exactly  
16 what it was, but he wouldn't go all that last point  
17 because he knows it was murder. He was trying to  
18 make it consensual, and, Judge, there's no way, I  
19 submit to your Honor, as a fact finder, using his  
20 common sense, you can say, your Honor, in good  
21 conscious, "My God, well, maybe he did this  
22 consensually, but he didn't kill her." It's just  
23 too -- You got to cut two fine lines, your Honor,  
24 and I submit to your Honor, the evidence is there.

Why would he go to Michael Walker and  
create an alibi? Right away why would he go to  
Michael Walker and create an alibi?

Your Honor, I don't believe we have to